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DEPARTMENT OF THE TREASURY

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Div	Brch	TITLE
FID	PST	EC - ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

PDA2004/406090
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RAA
10/11/05

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KEY FUNCTION DESCRIPTOR (38)

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

24 July 1986

1122F

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

2. At its meeting on 25 July 1985, the Officials' Committee on Law Enforcement decided to establish an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation - a decision subsequently endorsed in the Special Minister of State's statement to Parliament on the Report on

27 November 1985. The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association (ABA) and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries.

DEFINITION

3. As the term implies, bankers' opinions are essentially references or opinions provided by banks, to other banks, on the financial standing and worth of their clients. Such opinions are normally expressed in general terms and are based on a knowledgeable assessment of the client's financial standing and history.

BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South-east Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the Group's Australian bank and on which that bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS' OPINIONS IN AUSTRALIA

6. The ABA has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Bankers' opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-section 52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a

contravention of section 52 of the Act is damages under section 82. However, if the opinion contravenes one of the specific prohibitions contained in section 53 (false or misleading representations) or section 55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000.

10. At common law, notwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudulent, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

11. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients and the fact that it is not normal practice for banks to negotiate on the content of their opinions.

12. The Working Group also considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the branch of the bank with whom it dealt.

OPTIONS

13. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence, respectively, in the issue of opinions by banks on their clients.

14. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet

information was included in opinions on Nugan Hand Ltd issued by its bank while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is doubtful whether any prescribed guidelines would have significantly altered the nature of the bank's opinion in this instance.

15. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the client's reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the bank with whom it dealt to ensure an impression of reliability and soundness on both counts.

16. More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant to the enquiry, a set of strict guidelines would seem impractical. Moreover, the ABA has advised that the vast majority of opinions are given orally and that form is preferred.

17. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable nor necessary in meeting the concerns of the Stewart Commission. The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

18. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is Attached.

19. The Working Group recognises, however, that there were several shortcomings identified by the Commission with aspects of the opinions issued on Nugan Hand Ltd that should have been readily apparent to the bank concerned since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

20. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary nor practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance and avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

ATTACHMENT

PRACTICES IN SOME OTHER COUNTRIES

(i) UNITED KINGDOM

Legal Standing

There is no British statute law which relates directly to bankers' opinions, and no recent case law. Banks in the UK distinguish themselves from credit reference agencies (which are subject to the provisions of the Consumer Credit Act) in that the latter obtain information about other parties in order to provide it to third parties.

Current Practice

2. The practice followed in issuing bankers' opinions in the UK is, as might be expected, essentially the same as that in Australia. In essence, the clearing banks issue standing instructions to their branch managers about preparing bankers' opinions. These instructions indicate whose requests for opinions are to be responded to, and how to respond. Under these instructions, bankers' opinions are normally issued by a branch manager on the same day as the request is received, and on the basis of the information he has to hand about the running of the client's account and his knowledge of the client's business.

(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

Current Practice

4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

(iii) JAPAN

Legal Standing

5. There are no specific laws or regulations (for instance, in the Banking Law), governing either, in the first instance, the terms in which bankers' opinions are given or secondly the nature of the legal liability that might subsequently arise. Any damages or compensation that might be sought would be a matter of contract law.

Current Practice

6. It would appear that the issuing of bankers' opinions is not a practice extensively followed in Japan. In fact, general policy seems to be for banks to withhold information from their competitors about the financial standing of their customers, especially information pertaining to a customer's overall position. This policy has been adopted to protect their established clientele and business, an attitude that has been reinforced in recent years because of the declining demand for banking loans as a result of financial

deregulation in Japan and a growing trend for companies to fund themselves directly from the market. On the very rare occasions that a bank would write a recommendation about one of its clients to a third party, this would be dictated by extremely unusual circumstances and where it was judged absolutely necessary in order to secure joint funding of a particular activity.

7. There are, however, circumstances in which information exchanges occur informally between banks. Although confirmed in writing, the exchange is essentially conducted by telephone and is governed by certain conventions which the banks accept as having no legal force. These are that the bank giving the information accepts no responsibilities, that the receiving bank undertakes to observe the confidentiality of the information and that the requested bank is not obliged to furnish all the information sought.

John Bennett

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F83/631

Chairman
Officials Committee on
Law Enforcement
Department of the Prime Minister
and Cabinet
West Block
CANBERRA ACT 2600

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

At its meeting on 25 July 1985 the Officials Committee on Law Enforcement agreed to the establishment of an informal working group of officials comprising representatives from Treasury, the Reserve Bank and Attorney-General's Department to consider recommendation 11.8 of the abovementioned Royal Commission namely, to review possible criteria for the issuing of bankers' opinions in Australia. I now enclose six copies of the working group's report on this matter for consideration by the Committee.

The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries. Its recommendations have been agreed to by all members of the working group.

Sgd R.M.B.

R.M. Beetham
First Assistant Secretary
28 July 1986

Copies sent to RBA (McKenna) & A.G.s (Fleming) under complement slip 28/7.
28/7

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The Treasurer

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: RECOMMENDATION 11.8. POSSIBLE ESTABLISHMENT OF CRITERIA FOR THE ISSUE OF BANKERS' OPINIONS IN AUSTRALIA

This minute is to inform you of a report we recently forwarded to the Officials Committee on Law Enforcement (OCLE) concerning the above. The report (copy attached) was prepared by an informal working group of officials comprising ourselves and representatives from the Reserve Bank and Attorney-General's Department.

Copies to:

The Secretary
Mr Moore
Dr Higgins
Mr Evans

BACKGROUND

2. At a meeting on 25 July 1985 convened to consider the possible responses to recommendations contained in the Stewart Commission's report on the activities of the Nugan Hand Group, the OCLE agreed to our suggestion that the abovementioned working group be established to consider the matter raised in Recommendation 11.8 namely, the possible establishment of criteria governing the issue of bankers' opinions in Australia.

3. As the name implies, bankers' opinions are essentially references given by banks, to other banks, on the financial standing and worth of their clients. The concerns that led the Commission to focus on this matter were the manner in which the principals of the Nugan Hand Group were able, through a process of negotiation, to influence the branch manager of the Australian bank with whom it dealt (the Pitt and Hunter Street Branch of the ANZ) to issue favourable opinions on the Group's financial standing and the subsequent very effective use that was made of those opinions in expanding the Group's activities, particularly in South East Asia.

FINDINGS OF THE WORKING GROUP

4. Against the background of consultations between the Reserve Bank and the Australian Bankers' Association and information collated by ourselves and Attorney-General's on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries, the working group concluded that the establishment of formal guidelines to be followed by banks in the issuing of opinions on their clients is neither practical nor necessary in meeting the concerns of the Stewart Commission. In particular, it was noted that the details included in an

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opinion vary depending on what is relevant to the enquiry, hence a set of strict guidelines would be impractical. Moreover, considerable remedies already exist under current law (most notably the consumer protection provisions of the Trade Practices Act 1974 and the broader common law 'duty of care' doctrine) in the event of a bank being negligent or failing to exercise reasonable care and skill in issuing an opinion.

5. The working group notes, nevertheless, that there were several shortcomings identified by the Commission with aspects of the opinions given on Nugan Hand that should have been readily apparent to the bank concerned and recommends that these be brought formally to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance in this area in future.

6. For information.

(SGD) RICHARD M. BEETHAM

R.M. Beetham
First Assistant Secretary
25 July 1986

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

24 July 1986

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

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BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

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CURRENT PRACTICE IN ISSUING BANKERS' OPINIONS IN AUSTRALIA

6. The ABA has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Bankers' opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-section 52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a

contravention of section 52 of the Act is damages under section 82. However, if the opinion contravenes one of the specific prohibitions contained in section 53 (false or misleading representations) or section 55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000.

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CONSIDERATION OF THE ISSUES

11. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients and the fact that it is not normal practice for banks to negotiate on the content of their opinions.

12. The Working Group also considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the branch of the bank with whom it dealt.

OPTIONS

13. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence, respectively, in the issue of opinions by banks on their clients.

14. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet

information was included in opinions on Nugan Hand Ltd issued by its bank while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is doubtful whether any prescribed guidelines would have significantly altered the nature of the bank's opinion in this instance.

15. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the client's reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the bank with whom it dealt to ensure an impression of reliability and soundness on both counts.

16. More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant to the enquiry, a set of strict guidelines would seem impractical. Moreover, the ABA has advised that the vast majority of opinions are given orally and that form is preferred.

17. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable nor necessary in meeting the concerns of the Stewart Commission. The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

18. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is Attached.

19. The Working Group recognises, however, that there were several shortcomings identified by the Commission with aspects of the opinions issued on Nugan Hand Ltd that should have been readily apparent to the bank concerned since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

20. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary nor practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance and avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

1122F

ATTACHMENT

PRACTICES IN SOME OTHER COUNTRIES

(i) UNITED KINGDOM

Legal Standing

There is no British statute law which relates directly to bankers' opinions, and no recent case law. Banks in the UK distinguish themselves from credit reference agencies (which are subject to the provisions of the Consumer Credit Act) in that the latter obtain information about other parties in order to provide it to third parties.

Current Practice

2. The practice followed in issuing bankers' opinions in the UK is, as might be expected, essentially the same as that in Australia. In essence, the clearing banks issue standing instructions to their branch managers about preparing bankers' opinions. These instructions indicate whose requests for opinions are to be responded to, and how to respond. Under these instructions, bankers' opinions are normally issued by a branch manager on the same day as the request is received, and on the basis of the information he has to hand about the running of the client's account and his knowledge of the client's business.

(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

Current Practice

4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

(iii) JAPAN

Legal Standing

5. There are no specific laws or regulations (for instance, in the Banking Law), governing either, in the first instance, the terms in which bankers' opinions are given or secondly the nature of the legal liability that might subsequently arise. Any damages or compensation that might be sought would be a matter of contract law.

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AUSTRALIA

ATTORNEY-GENERAL'S DEPARTMENT

TEL: 71 9111

ROBERT GARRAN OFFICES
NATIONAL CIRCUIT
BARTON A.C.T. 2600

18 July 1986

PLEASE QUOTE: CL85/15007MM
YOUR REF: 83/631

Secretary
The Treasury
CANBERRA ACT 2600

23/7

Attention: R M Beetham
First Assistant Secretary

Mr M Edwards
Mr Fisher

Stewart Royal Commission of Inquiry - Nugan Hand Group

I refer to your memorandum of 8 July 1986.

2. I have no comments to make in respect of the further draft of the Report of the Working Group of Officials Established To Review Criteria For The Issuing Of Banker's Opinions.

G. Fleming

(G FLEMING)
for Secretary

JUL 22 12 11 PM '86

DEPT. TREASURY
REGISTRY

Mr Fisk
MTF pls
Mr Callaghan 194
Mr Edwards
Thanks

F83/631

-8 JUL 1986

The Secretary
Attorney-General's Department
CANBERRA ACT 2600

ATTENTION Mr G. Fleming

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: DRAFT REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

Thank you for your memorandum of 23 June 1986 providing comments on our first draft of the above-mentioned report. Your comments and those of the Reserve Bank of Australia have now been incorporated into a further draft of this report, a copy of which is attached for your further consideration prior to our forwarding it to the Chairman of the Officials Committee on Law Enforcement.

As you will note, aside from the amendments you suggested (which have been incorporated in full), the only other substantive changes, made at the request of the Reserve Bank, have been to delete all references throughout the report to the ANZ Bank and to amend slightly the wording of the recommendation to obviate the need to consider at this stage the detail of the proposed letter from the Reserve Bank to individual banks on the matter.

In the process of revising the draft we have also dropped previous references to attachments intended to reproduce the Special Minister of State's statement to Parliament on the Nugan Hand Report of 27 November 1985 and examples of the opinions issued on the Nugan Hand Group referred to by Justice Stewart, both of which we now consider, would have added little of substance to the report.

I would be grateful for any further comments on suggestions you may have by 18 July 1986, if possible. The Treasury contact officer in Mr Murray Edwards (63 2828).

R.M. Beetham
First Assistant Secretary

F83/631

-8 JUL 1986

The Secretary
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001

ATTENTION Mr D. McKenna

Dear Sir

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: DRAFT REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

Thank you for your letter of 23 May providing comments on the first draft of the above-mentioned report. Your comments and those recently received from Attorney-General's Department have been incorporated into a second draft of this report, a copy of which is attached for your further consideration prior to our forwarding it to the Chairman of the Officials Committee on Law Enforcement.

As you will note, Attorney-General's Department have no problems with the broad thrust of the report and recommendations, their comments having been essentially confined to providing more definitive information on current law applicable to the issue of bankers' opinions.

I would be grateful for any further comments or suggestions you may have by 18 July 1986 if possible. The Treasury contact officer is Mr Murray Edwards (63 2828).

Yours faithfully

M.E.

R.M. Beetham
First Assistant Secretary

RBA advised M Edwards on 18/7 that it had no problems with the redraft. [illegible] 18/7.

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DRAFT

OF 7 JULY 1986

REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

2. At its meeting on 25 July 1985, the Officials' Committee on Law Enforcement decided to establish an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation - a decision subsequently endorsed in the Special Minister of State's statement to Parliament on the Report on

27 November 1985. The report has been prepared against the background of consultations between the Reserve Bank and the Australian Bankers' Association (ABA) ~~on the matter~~ and information collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries.

DEFINITION

3. As the term implies, bankers' opinions are essentially references or opinions provided by banks, to other banks, on the financial standing and worth of their clients. Such opinions are normally expressed in general terms and are based on a knowledgeable assessment of the client's financial standing and history.

BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South-east Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the Group's Australian bank and on which that bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS' OPINIONS IN AUSTRALIA

6. The ABA has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Bankers' opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-section 52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a contravention of section 52 of the Act is damages under section 82. However, if the opinion contravenes one of the specific prohibitions contained in section 53 (false or

misleading representations) or section 55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000.

10. At common law, notwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudulent, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

11. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients and the fact that it is not normal practice for banks to negotiate on the content of their opinions.

12. The Working Group ~~nevertheless~~ also considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the branch of the bank with whom it dealt.

OPTIONS

13. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence, respectively, in the issue of opinions by banks on their clients.

14. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet information was included in opinions on Nugan Hand Ltd issued by its bank while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned

first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is doubtful whether any prescribed guidelines would have significantly altered the nature of the bank's opinion in this instance.

15. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the client's reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the bank with whom it dealt to ensure an impression of reliability and soundness on both counts.

16. More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant to the enquiry, a set of strict guidelines would seem impractical. Moreover, the ABA has advised that the vast majority of opinions are given orally and that form is preferred.

17. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable nor necessary in meeting the concerns of the Stewart Commission. The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

18. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is Attached.

19. The Working Group recognises, however, that there were several shortcomings identified by the Commission with aspects of the opinions issued on Nugan Hand Ltd that should have been readily apparent to the bank concerned since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group

considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

20. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is neither necessary nor practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance and avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

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ATTACHMENT

PRACTICES IN SOME OTHER COUNTRIES

(i) UNITED KINGDOM

Legal Standing

There is no British statute law which relates directly to bankers' opinions, and no recent case law. Banks in the UK distinguish themselves from credit reference agencies (which are subject to the provisions of the Consumer Credit Act) in that the latter obtain information about other parties in order to provide it to third parties.

Current Practice

2. The practice followed in issuing bankers' opinions in the UK is, as might be expected, essentially the same as that in Australia. In essence, the clearing banks issue standing instructions to their branch managers about preparing bankers' opinions. These instructions indicate whose requests for opinions are to be responded to, and how to respond. Under these instructions, bankers' opinions are normally issued by a branch manager on the same day as the request is received, and on the basis of the information he has to hand about the running of the client's account and his

knowledge of the client's business.

(ii) UNITED STATES

Legal Standing

3. There is no legislation specifically relating to the issue of bankers' opinions and neither the US Treasury nor the Federal Reserve Board play any role in the oversighting of the practice. The involvement of the authorities in the use of opinions appears solely related to opinions/references between governmental instrumentalities.

Current Practice

4. It is difficult to assess the role of bankers' opinions in the United States given the vast number and variety of financial institutions. Major banking houses do provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In essence, the issue of bankers' opinions/references appears to be solely a matter for individual institutions to determine and there may not even be any informal guidelines governing their use.

(iii) JAPAN

Legal Standing

5. There are no specific laws or regulations (for instance, in the Banking Law), governing either, in the first instance, the terms in which bankers' opinions are given or secondly the nature of the legal liability that might subsequently arise. Any damages or compensation that might be sought would be a matter of contract law.

Current Practice

6. It would appear that the issuing of bankers' opinions is not a practice extensively followed in Japan. In fact, general policy seems to be for banks to withhold information from their competitors about the financial standing of their customers, especially information pertaining to a customer's overall position. This policy has been adopted to protect their established clientele and business, an attitude that has been reinforced in recent years because of the declining demand for banking loans as a result of financial deregulation in Japan and a growing trend for companies to fund themselves directly from the market. On the very rare occasions that a bank would write a recommendation about one of its clients to a third party, this would be dictated by

extremely unusual circumstances and where it was judged absolutely necessary in order to secure joint funding of a particular activity.

7. There are, however, circumstances in which information exchanges occur informally between banks. Although confirmed in writing, the exchange is essentially conducted by telephone and is governed by certain conventions which the banks accept as having no legal force. These are that the bank giving the information accepts no responsibilities, that the receiving bank undertakes to observe the confidentiality of the information and that the requested bank is not obliged to furnish all the information sought.

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~~MASTER~~

Mr Edward,
[illegible]
7/8/86.

DRAFT
OF 30 JUNE 1986

REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

1986

~~March 1986~~

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

~~The Government's acceptance of this recommendation is noted in the statement to Parliament on the Report by the Special Minister of State~~

2. At its meeting on 25 July 1985, the Officials' Committee on Law Enforcement ~~agreed to the~~ decided to establish~~ment of~~ an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation. The Reserve Bank subsequently consulted with the Australian Bankers' Association (ABA), on the matter and information was collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers' opinions in Australia and other countries.

~~State on 27 November 1985~~ at a decision subsequently endorsed by the Government in the statement to Parliament on the Report by the Special Minister of State on 27 November 1985.

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DEFINITION

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BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South-East Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch Manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such

as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the bank giving the opinion and on which the bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS' OPINIONS IN AUSTRALIA

6. The ~~Australian Bankers' Association (ABA)~~ ABA has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9 (New para - see below)

10 ~~9.~~ ~~Notwithstanding~~ At common law, notwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudul~~ent~~e, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

11 ~~10.~~ In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients and the fact that it is not [illegible] for banks to negotiate on the

~~9.~~ Bankers' opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-s.52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a contravention of s.52 of the Act is damages under s.82. However, if the opinion contravenes one of the specific prohibitions contained in s.53 (false or misleading representations) or s.55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9 (New para - see below)

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prosecution and be subject
$100,000

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12 ~~11.~~ The Working Group nevertheless considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the branch of the ~~Group's~~ bank with whom it dealt. ~~the Pitt and Hunter Street branch of the ANZ Group~~.

OPTIONS

13 ~~12.~~ In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) ~~(b)~~ continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence respectively in the issue of opinions by banks on their clients.

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- the circumstances under which the Nugan Hand Group were able to obtain favourable opinions on their activities were extraordinary; and

- the 'duty of care doctrine' already provides considerable legal sanction against negligence in the issue of opinions by banks on their clients.

14 ~~13~~. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet information was included in ~~the ANZ's reference~~ the opinions on Nugan Hand Ltd issued by its bank while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugan Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is ~~extremely~~ doubtful whether any prescribed guidelines would have ~~materially~~ significantly altered the nature of the bank's opinion in this instance.

15 ~~14~~. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the client's reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the ~~ANZ~~ bank with whom it dealt to ensure an impression of reliability and soundness on both counts.

16 ~~15~~. More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant to the enquiry, a set of strict guidelines would seem impractical. Moreover, ~~Moreover, as clearly exemplified by the examples in the Commission's Report of opinions issued by the ANZ and others on the Group's activities (reproduced at Attachment B), the detail of information included varies considerably and is essentially dictated by the nature of the enquiry itself.~~

~~Indeed the ABA have advised that the vast majority of opinions are given orally and there is a preference for that form of conveyance.~~ has that form is preferred.

17 ~~16~~. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable ~~or~~ nor necessary in meeting the concerns of the Stewart Commission. ~~Banks~~ The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently. ~~adhered to.~~ Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly

Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

18 ~~17.~~ The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is provided at the Attachment.

19 ~~18.~~ The Working Group recognises, however, that there were several shortcomings with aspects of the opinions issued ~~by the ANZ~~ on Nugan Hand Ltd identified by the Commission that should have been readily apparent to the bank concerned since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

20 ~~19.~~ The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary nor practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by ~~way of the attached draft letter from the Governor of~~ the Reserve Bank with a view to seeking their assurances of greater vigilance ~~in~~ and avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

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AUSTRALIA

ATTORNEY-GENERAL'S DEPARTMENT

TEL: 71 9111

ROBERT GARRAN OFFICES
NATIONAL CIRCUIT
BARTON A.C.T. 2600

PLEASE QUOTE:
YOUR REF: CL85-15007

23 June 1986

25/6

The Secretary
The Treasury
CANBERRA ACT 2600

Attention: Mr K Waller 28/1

Royal Commission of Inquiry into the Activities of the Nugan Haud Group, Recommendation 11.8, Banker Opinions

I refer to Mr K Waller's memorandum of 29 April 1986 and the attached draft Report of the Working Group of Officials Established to Review Criteria for the issuing of Banker's Opinions. My comments on the draft Report are set out below.

2. Before the current paragraph 9 a new paragraph 9 as follows should be inserted:

> "9. Bankers opinions come within the scope of Division 1 of Part V (the consumer protection provisions) of the Trade Practices Act 1974 and in particular sub-s.52(1) which prohibits, on a civil basis, a corporation in trade or commerce, engaging in conduct that is misleading or deceptive or is likely to mislead or deceive. The general remedy for a contravention of s.52 of the Act is damages under s.82. However, if the opinion contravenes one of the specific prohibitions contained in s.53 (false or misleading representations) or s.55A (certain misleading conduct in relation to services) the bank may be liable to prosecution and be subject to a fine not exceeding $100,000."

3. At the beginning of the current paragraph 9 the words "At common law" should be inserted.

4. Paragraph 12(b) should be amended to read as follows:

> "b) continue to rely on the provisions of Division 1 of Part V of the Trade Practices Act 1974 and the common law 'duty of care' doctrine which already provide appropriate legal sanctions against false and misleading representations and negligence respectively in the issue of opinions by banks on their clients."

5. In relation to paragraph 16 the second sentence should be amended to read as follows:

> "The Trade Practices Act and the common law 'duty of care' doctrine provide substantial legal sanctions in the event that opinions are given which are false or misleading, or prepared negligently."

6. It would be appreciated if, in due course you would forward for comment a copy of the proposed letter to the Reserve Bank.

7. Should you wish to discuss any of the suggested changes please contact Mr G. Fleming on 719271.

(JOHN F. LEY)
for Secretary

cc Mr Callaghan
~~Mr Edwards~~
→ Mr. Mallory
ATE

65 MARTIN PLACE
BOX 3947 GPO SYDNEY 2001
TELEPHONE 234 9333
IN REPLY PLEASE QUOTE SD

RESERVE BANK OF AUSTRALIA

22 May 1986

Refer Mr M. Edwards

The Secretary to the Treasury
The Treasury
Parkes Place
CANBERRA ACT 2600

Dear Sir,

STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP:
BANKERS' OPINIONS

We refer to your letter of 29 April and offer the following comments on the draft OCLE Report.

- As mentioned on the phone, we believe it is not helpful to make specific references to the bank involved with Nugan Hand opinions, and we would prefer any such references omitted. These occur in paragraphs 11, 13, 14, 15, 18. The situation in paragraph 15 might be met by simply removing the words "by the ANZ and others" from line 2.

- Paragraph 10 would be strengthened by ABA advice that it is not normal practice for banks to negotiate on the content of their opinions.

- Paragraph 13:

  - delete "extremely" from line 15;

  - substitute "significantly" for "materially" in line 16.

- Paragraph 15 - suggested redraft as follows:

  "More generally, the detail of information included in bankers' opinions is essentially dictated by the nature of the enquiry itself. As the details included in an opinion will vary depending on what is relevant

to the enquiry, a set of strict guidelines would seem impractical. Moreover, the ABA have advised that the vast majority of opinions are given orally and that form is preferred."

. Paragraph 19, last sentence to read "It nevertheless recommends that the concerns of the Commission be formally brought to the attention of individual banks by the Reserve Bank with a view to seeking their assurances of greater vigilance and avoiding the shortcomings identified in future".

Yours faithfully,

M.R. Hill
Secretary

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The Secretary
Reserve Bank of Australia
GPO Box 3947
SYDNEY NSW 2001

ATTENTION Mr D. McKenna

Dear Sir

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: RECOMMENDATION 11.8 - 'BANKERS' OPINIONS'

As you will recall, at its meeting on 25 July 1985 the Officials Committee on Law Enforcement (OCLE) agreed to the establishment of an informal working group comprising representatives from Treasury, the Reserve Bank and the Attorney-General's Department to consider the abovementioned recommendation concerning bankers' opinions.

With the necessary background information now having been assembled, we attach for your consideration a copy of a draft report we have prepared on the matter. We stress that the draft reflects our preliminary thoughts only and has been prepared as a basis for progressing the matter, consistent with the informal nature of the working group. Once the report is finalised it is intended that it would be forwarded to the Chairman of the OCLE.

We would be grateful for your comments on the draft by 16 May if possible. The contact officer in Treasury on this matter is Mr M. Edwards, 63 2828.

Yours faithfully

M. J. Callaghan

K. Waller
Acting First Assistant Secretary

29 APR 1986

Mr Mallory
ATT-

The Secretary
Attorney-General's Department
CANBERRA ACT 2600

ATTENTION Mr H. Woltring

STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: RECOMMENDATION 11.8 - 'BANKERS' OPINIONS'

As you will recall, at its meeting on 25 July 1985 the Officials Committee on Law Enforcement (OCLE) agreed to the establishment of an informal working group comprising representatives from Treasury, the Reserve Bank and the Attorney-General's Department to consider the abovementioned recommendation concerning bankers' opinions.

With the necessary background information now having been assembled, we attach for your consideration a copy of a draft report we have prepared on the matter. We stress that the draft reflects our preliminary thoughts only and has been prepared as a basis for progressing the matter, consistent with the informal nature of the working group. Once the report is finalised it is intended that it would be forwarded to the Chairman of the OCLE.

We would be grateful for your comments on the draft by 16 May if possible. The contact officer in Treasury on this matter is Mr M. Edwards, 63 2828.

M. J. Callaghan

K. Waller
Acting First Assistant Secretary

29 APR 1986

Mr Mallery
AFF

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REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

March 1986

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ATTACHMENTS

REPORT OF THE WORKING GROUP OF OFFICIALS ESTABLISHED TO REVIEW CRITERIA FOR THE ISSUING OF BANKERS' OPINIONS

INTRODUCTION

In its Final Report, the Royal Commission of Inquiry into the Activities of the Nugan Hand Group (Stewart Commission) made a number of policy recommendations including Recommendation 11.8, namely:

> 'That a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers' Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth which they have reason to suspect will be relied upon in that regard by those requesting such opinions or those to whom such opinions are to be, or are likely to be, directed.'

2. At its meeting on 25 July 1985, the Officials Committee on Law Enforcement agreed to the establishement of an informal working group of officials from Treasury, the Reserve Bank and Attorney-General's Department to consider this recommendation. The Reserve Bank subsequently consulted with the Australian Bankers' Association on the matter and information was collated by Treasury and Attorney-General's Department on the current legal standing of, and practice with, issuing bankers opinions in Australia and other countries.

DEFINITION

3. As the term implies, banker's opinions are essentially references or opinions provided by banks, to other banks, on the financial standing and worth of their clients. Such opinions are normally expressed in general terms and are based on a knowledgeable assessment of the client's financial standing and history.

BACKGROUND TO MR JUSTICE STEWART'S RECOMMENDATION

4. The concerns that led the Stewart Commission to focus on bankers' opinions arose from the apparent ability of the Nugan Hand Group to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

5. Of particular concern to the Stewart Commission was its finding that, through a process of negotiation between the principals of the Nugan Hand Group and the branch Manager of the bank with whom it dealt, the Group was able to inject into the bank's 'opinion', selected balance sheet information that had essentially been contrived to give an impression of a strongly expanding asset base. At the same time, the Stewart Commission found that the Nugan Hand Group was also able to achieve, through a series of suggested drafting amendments, the omission of other essential information, such

as profit performance, and to have incorporated information on the activities of its overseas affiliates which did not deal directly with the bank giving the opinion and on which the bank was not therefore in a position to make any assessment.

CURRENT PRACTICE IN ISSUING BANKERS OPINIONS IN AUSTRALIA

6. The Australian Bankers' Association (ABA) has advised that while there is no formal code within the banking industry under which opinions are sought and given, similar standards and conventions are observed by all banks. In essence, the opinion process in Australia amounts to an exchange of information on an inter-bank basis, opinions being sought by banks on behalf of customers. Banks do not respond to requests for opinions concerning their customers from third parties.

7. Information disclosed in response to requests for opinions is provided on a confidential basis and a 'without responsibility' disclaimer. Nevertheless, because of the important principles involved, opinions are authorised only by senior bank staff.

8. As indicated earlier, opinions are based on information that is available to the bank directly by way of its dealings with the customer and, where appropriate, publicly available factual information. They are expressed in general terms and, reflecting a bank's obligation to secrecy in its dealings with clients, specific details such as account balances, borrowing arrangements and security held are not divulged.

CURRENT LEGAL POSITION IN ISSUING OPINIONS IN AUSTRALIA

9. Nothwithstanding the fact that bankers' opinions are issued with a disclaimer of responsibility, there is a considerable body of case law dealing with the provision of information and advice and it is well established that bankers are under a duty of care to ensure that information provided in opinions is factual and given without negligence. While there would appear to be numerous precedents in case law, two major Australian cases, in particular, have resulted in judgements being given against banks for being negligent in failing to exercise reasonable care and skill in giving an opinion or because the opinion was false or fraudulant, or given recklessly without regard to the truth.

CONSIDERATION OF THE ISSUES

10. In considering the concerns raised by the Stewart Commission, the Working Group first acknowledges the Commission's observation that the circumstances whereby a managing director of an alleged merchant bank was, in effect, able to prepare his own bank reference were extraordinary, particularly given the clear, well established legal obligation on bankers to exercise a duty of care in issuing opinions on their clients.

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11. The Working Group nevertheless considers it is particularly relevant that obtaining favourable opinions on their activities was but one part in a chain of deception and fraud perpetrated by the principals of the Nugan Hand Group. As noted by the Commission, the first step in this chain was the preparation of a set of accounts which misrepresented the true financial position of Nugan Hand Ltd (particularly in conveying a false impression of a rapidly expanding asset base). The second step was to obtain the cooperation of the Nugan Hand Group's auditors in certifying these accounts. It was largely on the basis of those certified (but false) accounts that favourable opinions on Nugan Hand Ltd's activities were able to be elicited from the Group's bank, the Pitt and Hunter Street branch of the ANZ Group.

OPTIONS

12. In considering a possible Government response to the Stewart Commission's recommendation there would appear to be essentially two options:

a) Accept the thrust of the Commission's recommendation and seek to establish, either by legislation or voluntary cooperation, a set of guidelines to be followed by banks in issuing opinions on their clients; or

b) continue to rely on the internal standards and conventions currently followed by banks in issuing opinions against the background that:

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- the circumstances under which the Nugan Hand Group were able to obtain favourable opinions on their activities were extraordinary; and

- the 'duty of care doctrine' already provides considerable legal sanction against negligence in the issue of opinions by banks on their clients.

13. Option (a) has a possible advantage in that it could provide for some standardisation of the nature and detail of information included in bankers' opinions and, in particular, could go some way to meeting the specific concern of the Commission that only selective (ie favourable) balance sheet information was included in the ANZ's reference on Nugan Hand Ltd while other more important information, such as the Group's profitability, was excluded. That concern notwithstanding, the fact remains that the abovementioned first two links in the chain of fraud and deception perpetrated by the Nugen Hand Group were crucial to favourable opinions being obtained. Since those two links were clearly beyond the purview of information that could reasonably be expected to be subject to verification by any bank, it is extremely doubtful whether any prescribed guidelines would have materially altered the nature of the bank's opinion in this instance.

14. As indicated earlier, the essential basis for issuing opinions is the bank's knowledge of the manner in which the client has conducted its accounts and the clients reliability in meeting its commitments to the bank. From the information available, it would seem that the Nugan Hand Group carefully orchestrated its dealings with the branch of the ANZ with whom it dealt to ensure an impression of reliability and soundness on both counts.

15. Moreover, as clearly exemplified by the examples in the Commission's Report of opinions issued by the ANZ and others on the Group's activities (reproduced at Attachment B), the detail of information included varies considerably and is essentially dictated by the nature of the enquiry itself. Indeed the ABA have advised that the vast majority of opinions are given orally and there is a preference for that form of conveyance.

16. Against that background, the Working Group concludes that implementation of formal guidelines to be followed by banks in issuing opinions is neither practicable or necessary in meeting the concerns of the Stewart Commission. Banks already have in place quite stringent guidelines for the issue of such opinions and the 'duty of care' doctrine provides considerable legal sanction in ensuring they are adhered to. Furthermore, the Working Group notes that the Commission's other recommendations directed to the first two links in the chain of events mentioned above, particularly

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Recommendation 11.7 concerning the scope and duty of auditors would, if effectively met, go a long way to ensuring that the circumstances giving rise to its concerns regarding bankers' opinions do not reoccur.

17. The Working Group also notes that the issuing of bankers' opinions is not a matter that appears to be subject to any governmental direction in other countries. A summary of practices in issuing bankers' opinions and their legal standing in the UK, US and Japan is provided at Attachment C.

18. The Working Group recognises, however, that there were several shortcomings with aspects of the opinions issued by the ANZ on Nugan Hand Ltd identified by the Commission that should have been readily apparent to the bank since it would seem from the evidence available that they went beyond the bank's own criteria and guidelines. The Working Group considers therefore that these shortcomings identified by the Commission should be brought formally to the attention of banks with a view to seeking their assurances of greater vigilance in avoiding future problems.

RECOMMENDATIONS

19. The Working Group considers that the implementation of formal guidelines to be adhered to by banks in the issuing of opinions on the financial standing of their clients is

neither necessary or practicable in addressing the concerns raised by the Stewart Royal Commission. It nevertheless recommends that the concerns of the Commission be formally brought to the attention of banks, by way of the attached draft letter from the Governor of the Reserve Bank, with a view to seeking their assurances of greater vigilance in avoiding the shortcomings identified in future.

The Treasury
Attorney-General's Department
Reserve Bank of Australia

1122F

QUESTION TIME BRIEFING: STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP - BANKERS OPINIONS

Possible Question: What steps has the Government taken to establish criteria to be followed by banks in respect to the issuing of opinions concerning their clients, as recommended by Mr Justice Stewart.

Possible Answer

- As mentioned by my colleague, the Special Minister of State in his statement accompanying the tabling of the Report, a working group of officials is currently reviewing criteria followed by banks in Australia in issuing opinions on the financial standing or worth of their clients with a view to recommending an appropriate response by the Government on this matter.

BACKGROUND

As the term implies, 'bankers' opinions' are essentially references or opinions provided by banks, normally to other banks, on the financial standing or worth of their clients. The Commission's concern regarding this matter arose from the alleged manner in which the Nugan Hand Group was able, through a series of negotiations with a Branch Manager (now deceased) of the ANZ Bank through whom it dealt, to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

The working group (comprised of officials from Treasury, the Reserve Bank and Attorney-General's Department) has now assembled all relevant background information and is currently drafting a report which is expected to be submitted to the Government shortly.

Sgd MC

R.M. Beetham
First Assistant Secretary
6 February 1986

Mr Mallory
ATP

Mr Fisk Mr Mallory ADP Nugan Hand file 83/631 Mr M. Edwards 147 Do you have a file?

Hotline

THE CANBERRA CONNECTION by KENNETH RANDALL

TEMBY CRITICS MAY ACT

THE sizeable body of lawyers in the ranks of the federal parliamentary Labor Party has developed such concern towards the Director of Public Prosecutions, Ian Temby QC, that there may be some attempt next year to clarify or redefine his role. Many of them share the view of New South Wales Premier Neville Wran that some of Temby's actions may amount to entry into the political arena, creating just the sorts of problems that were meant to be eliminated by the establishment of the office.

The wrangle over Wran's alleged contempt has brought feeling to a head, but is not the first of its type. Earlier this year, Temby recommended to Attorney-General Lionel Bowen that he take contempt proceedings against Foreign Minister Bill Hayden on the basis of Hayden's much-publicised statement of support for Justice Lionel Murphy. On that occasion, however, the recommendation did not reach the notice of the media.

The point of contention in both cases is that the DPP is neither required nor expected to make such recommendations. He and the Attorney-General have equal powers to act where they perceive possible contempt, and they are expected to act of their own volition.

Temby's critics point out that he was prepared to do this in the case of alleged media breaches, but not where two prominent politicians were concerned. Although the office was specifically created to take such decisions out of a political context, they say, Temby attempted to hand-pass the problem to Attorney-General and deputy Prime Minister Lionel Bowen.

Although Bowen probably could have handled some aspects of the affair more diplomatically, he insisted at all stages that he was entitled to his own judgment, Temby was entitled to his, and should do what he considered appropriate. The media treatment he received has only served to harden the attitudes of some of his colleagues against Temby.

EEC PLANS SCARE WINE-MAKERS

THE Australian Wine and Brandy Corporation has been sounding alarms throughout the industry about an imminent invasion of the Australian market by big EEC producers. It says that some big European financial and trading institutions have been studying the Australian market closely, the latest being the French bank, Credit Agricole.

The corporation says the drop in the Australian dollar is not likely to stop the planned incursion, since support funds for the EEC producers have already been outlayed and any return now is regarded as a bonus. According to corporation research, the growth rate in sales of Australian wine has fallen from 5 per cent to 1.6 per cent since the introduction of sales tax last year, and imports accounted for one-third of growth in the 12 months to the end of September.

HARD-TO-HANDLE HARMONY

THE Industries Assistance Commission's public hearings on harmonisation of the customs tariff will start in Canberra on January 20 following the issue of a draft report this week. The IAC has grave doubts about the utility of the whole harmonisation exercise, mainly because there are more than 5000 mandatory headings under the new system, compared with about 2000 in the present tariff. A mark of complexity of the whole issue is that the draft report comes with a microfiche copy of the draft harmonised version — the only practicable means of handling it. The harmonised tariff is due to come into operation from January 1 1987.

from previous page

TELECOM BRANCHES OUT

TELECOM Australia is going into the computer business. Just 12 months after it launched its Computerphone, Telecom has called for expressions of interest from computer suppliers for office computer and communications systems.

Although Telecom is not planning t become another computer vendor, it wants to market office computers that will handle communications and sophisticated information management services. It wants to do deals with suppliers that have a solid track record in the Australian market and will be willing to make some commitment to local manufacture.

Telecom wants to exploit the opportunities for integration of computing and telephone, visual and digital communications through the public telephone system that will come with the introduction of its integrated subscriber digital detwork (ISDN). The first phase of the ISDN network will g into the main capital cities in 1988.

With ISDN services being implemented around the world, Telecom is also looking at joint ventures for export. It already has joir venture agreements with telecommunications suppliers Ericsson and NEC and it hopes to do the same with computer suppliers.

BNZ BACKS SCOTT-KEMMIS

THE Bank of New Zealand's Wellington-based board has issued a statement of support for Leigh Scott-Kemmis, chief executive of BNZ's Australian operations, following references to him in the Stewart Roya Commission into the Nugan Hand group (*BRW* December 13).

BNZ group chief executive Rober McCay told *BRW*: "On the facts ar information supplied to both us and our solicitors, we consider the matter closed. We are informed by our solicitors that, because of the strictur of the Royal Commission legislation, we should make no further commer

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DPP

Head Office

Director of
Public Prosecutions

PO Box E370
Queen Victoria Terrace
Canberra ACT 2600
Telephone 062 705 666
Facsimile 062 731 411
Telex AA61702

as per Private Secty Trans 10/12

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Your reference:

Our reference: 85/JWMcC/AW

Mr M Edwards

Mr Fink
ATF pls.

6 December 1985

The Secretary
The Treasury
CANBERRA ACT 2600

Royal Commission of Inquiry into the Activities of the Nugan Hand Group: A Question of Possible Breaches of Banking (Foreign Exchange) Regulations

I refer to your letter dated 28 November 1985 and associated correspondence in relation to the letter received by the Reserve Bank from the Nugan Hand Royal Commission which may provide evidence of offences against the Banking (Foreign Exchange) Regulations.

2. I note from the penultimate paragraph of the letter dated 25 October 1985 from the Reserve Bank that this matter is already the subject of an investigation by the Australian Federal Police and there does not appear to be anything required of this office at the present stage.

AFP has copy of all correspondence received from RBA.

Justin?

J. W. McCARTHY
Acting Assistant Director

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DEPT. TREASURY
REGISTRY

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Report and Ministerial Statement

Mr YOUNG (Port Adelaide—Special Minister of State)—I present the final report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

Motion (by **Mr Young**)—by leave—agreed to:

That this House, in accordance with the provisions of the Parliamentary Papers Act 1908, authorises publication of the final report of the Royal Commission of Inquiry into the activities of the Nugan Hand Group.

Mr YOUNG—by leave—On 28 March 1983 the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended to allow the Royal Commissioner, Mr Justice Stewart, to inquiry into activities of the Nugan Hand Group of companies and related matters.

INTERIM REPORTS

The Royal Commissioner has since submitted two interim reports. Interim report No. 1 was presented to the Government on 13 October 1983 and was tabled in the Commonwealth Parliament on 6 December 1983. This report dealt with allegations of improper interference with the investigations of the former Federal Narcotics Bureau; that is, terms of reference (e) (f) and (g) of the Letters Patent issued by the Governor-General. The Commission found no evidence to support allegations of improper interference with the investigations of the Federal Narcotics Bureau or of dishonest or improper behaviour on the part of any member of the Bureau.

The second Interim Report was presented to both the Commonwealth and New South Wales governments on 13 December 1984 and tabled in the Commonwealth and New South Wales parliaments on 20 March 1985. This report concentrated on terms (b), (c) and (d) contained in both the Commonwealth and New South Wales terms of reference and considered whether there had been any contravention of New South Wales or Commonwealth laws by the Nugan Hand group in its relations with local government authorities in New South Wales. The Royal Commissioner found that Nugan Hand Ltd had published false accounts to the councils and did not have the requisite dealer's licence, but that apart from these matters there was no evidence to support any further allegations.

FINAL REPORT

The report I am tabling today, which is also being tabled in the New South Wales Parliament, is the final report of the Royal Commission dealing with the terms of reference not covered by the earlier reports—term of reference (a) of both Letters Patent—namely:

. . . whether the Nugan Hand Group engaged in activities involving contravention of Laws of the Commonwealth [or New South Wales] (in particular, laws relating to the importation, exportation or possession of drugs or armaments or laws relating to exchange control.

In the report the Commission makes a number of positive findings, but indicates that its work was hampered by:

(a) The concealment or destruction of a number of relevant documents immediately following the death of Nugan;

(b) the impossibility of hearing evidence from Mr Nugan; and

(c) the fact that evidence could not be obtained from Mr Hand.

The Royal Commissioner believes that, despite these difficulties, he was able to piece the story together. The Royal Commissioner shows that the Nugan Hand group operated behind a facade of big spending and public relations hype which provided the appearance of a vital and growing concern. In reality, however, it was a structure of companies relying heavily on false balance sheets and round robin transactions to attract investment funds. It was badly managed and suffered from the ineptitude and lack of commercial skills of its principals. Despite this, it flourished for six years until the suicide of Mr Nugan precipitated investigation of its activities.

DRUG TRAFFICKING ALLEGATIONS

Honourable members will recall that from 1977 onwards allegations were made that the Nugan Hand group was involved in drug trafficking. The Royal Commissioner inquired into these allegations and concluded that there was no evidence to support assertions that the Nugan Hand group was knowingly involved in the importation, distribution or financing of the drug trade. In addition, with respect to the Nugan Hand office opened in Chiang Mai, Thailand, the Commission found that there was 'no evidence to support the allegation that the office in Chiang Mai was established to attract deposits from drug producers of the so-called 'Golden Triangle' '.

This is not to say that Messrs Nugan and Hand did not provide financial services to persons associated with the drug trade. At least

some officers of the Nugan Hand group were prepared to accept cash deposits through their companies regardless of their source and with the assurance that no questions would be asked concerning their source. The Royal Commissioner has concluded that on at least one occasion the Nugan Hand group transferred money overseas for collection by a member of the Mr Asia drug syndicate, but there was no evidence that any person associated with the group knew the money was to be used to purchase narcotics.

ARMS DEALINGS

Several previous inquiries, including those conducted by the New South Wales Corporate Affairs Commission, the Commonwealth-New South Wales Joint Task Force on Drug Trafficking and the Costigan Royal Commission into the Activities of the Federated Ship Painters and Dockers Union, referred to the Nugan Hand group's possible involvement in arms dealings and recommended further investigations. This Royal Commission was able to look more closely into possible arms dealing. Several attempts to initiate arms deals are instanced but on each occasion the Royal Commissioner concludes that the attempt came to nothing.

Central Intelligence Agency, Involvement

The Royal Commission inquired into allegations that the Nugan Hand group was used by and/or used the Central Intelligence Agency. The Commission found that these allegations lacked substance, being based on the fact that the Nugan Hand group employed several former senior United States army personnel some of whom had had CIA connections at some stage. The Royal Commissioner found it inherently implausible that the CIA would have used a group with the shortcomings of Nugan Hand. He found further that 'there was simply no objective evidence that the CIA used or was used by the Nugan Hand group in, or in connection with, any of the group's activities'. The United States Senate Select Committee on Intelligence reached a similar conclusion in its inquiry In the past some publicity was given to the fact that Federal Bureau of Investigation documents on Nugan Hand provided to journalists had pages blacked out. The report notes that the Royal Commissioner examined these files at Federal Bureau of Investigation headquarters and that there was nothing in them which would lend credence to the CIA allegation in any of its various forms.

Other Illegal Activities

The Royal Commission did find that there had been breaches by companies in the Nugan Hand group, its principals and a number of its officers, mainly of New South Wales laws and also of some Commonwealth laws. All of the criminal breaches identified under New South Wales law are related to the fraudulent conduct of company business with respect to one or more companies in the Nugan Hand group. The Commonwealth laws breached were tax laws and the then existing foreign exchange regulations.

The Commission made its assessment of the involvement in criminal behaviour of particular individuals on the basis of the civil standard of proof and therefore made no recommendations with respect to prosecutions. However, the conclusions as to criminality need to be followed up and the Commission has passed information, which may lead to prosecutions, to the relevant law enforcement bodies.

Deletions

The Government is aware that a significant amount of the information contained in this report has been published previously. The Royal Commissioner has suggested for deletion some parts of the report containing his assessment in relation to persons who appear to have committed criminal offences and this has been agreed. On the advice of the Director of Public Prosecutions and the Attorney-General's Department, and following consultation with the New South Wales Government, the Government has decided to delete some further sections of the public version of the report that might otherwise prejudice prosecutions or fair trial. Mr Justice Stewart has been informated of the Government's decision. A full copy of the report has been passed to the Leader of the Opposition (Mr Howard) for his information.

Recommendations

The Royal Commission has made a number of policy recommendations which are currently under active consideration by the Government: Firstly, the Commission has recommended amendments to the Royal Commissions Act to provide for the application of the rules of natural justice to the proceedings of royal commissions and to provide for royal commission powers to remain in force following the delivery of reports to enable the transfer, to relevant authorities, of material gathered by royal commissions. A review of the Commonwealth Royal Commissions Act has been under way for some

time and both of these issues will be considered before amendments are finalised. It is expected that this will be completed shortly.

Secondly, the Royal Commission has also recommended that access to Cayman Island banking documentation be arranged through an agreement with the United Kingdom and that modern judicial assistance treaties be established betweem Australia and other appropriate countries. The Commonwealth Secretariat is preparing a proposed scheme relating to mutual assistance in criminal matters between member nations of the Commonwealth. Australia has specifically raised the question of access to Cayman Island documentation in this regard. It is hoped that the scheme will be settled at the Commonwealth Law Ministers' meeting in July 1986. The Government has already commenced negotiating bilateral mutual assistance treaties with non-Commonwealth countries.

Thirdly, the Attorney-General (Mr Lionel Bowen) is considering the Royal Commissioner's recommendations for legislation to provide for the specification of the duties of auditors and for the review, by the National Companies and Securities Commission, of the Companies Code. State governments have important responsibilities in this area and it is proposed to hold discussions with them with a view to formulating an appropriate response.

Finally, the Royal Commissioner recommended that a committee be set up to liaise with appropriate professional bodies, such as the Australian Bankers Association, with a view to establishing criteria to be followed by banks in respect of the issuing of opinions concerning their clients' financial standing and worth. A working group has been established for this purpose.

Conclusion

In summary the Royal Commissioner found that the Nugan Hand group had operated for six years with total disregard for company law. Although it had prospered for a time its collapse was inevitable because of the inherent instability of financial operations based on the round-robin transactions and the lack of merchant banking expertise of its principals. The Royal Commissioner's final report, together with his two interim reports, concludes that the wilder allegations made after the group's collapse and concerning its activities could not be substantiated. The group's misdeeds were exaggerated, in particular with regard to the allegations relating to drug trafficking and arms dealing. Furthermore the Commission found that there was no connection between the group and the CIA. I am confident that public revelation of this sorry tale, together with the legislative and other measures the Government has taken against white-collar crime, and the increased vigilance that has resulted, will greatly reduce the likelihood of activities of this kind. Mr Justice Stewart and his staff are to be congratulated for the valuable reports they have produced under the Nugan Hand terms of reference.

Motion (by **Dr Blewett**) proposed:

That the House take note of the paper.

Mr SPENDER (North Sydney) (3.06) I would like to put this bland and brief statement into some sort of perspective. I go back to 20 April 1982 when the then Minister for Administrative Services proposed certain enlargement of the terms of reference of the Royal Commission of Inquiry into the Activities of the Nugan Hand group. He also tabled an opinion. That opinion was a joint opinion of the then Attorney-General and the Solicitor-General. It was said in that opinion that there was no justification for extending the terms of reference to consider the allegations which had then been made against the Central Intelligence Agency, the so-called CIA involvement. Let me quote what was said by the then Leader of the Opposition, now the Minister for Foreign Affairs (Mr Hayden), whose actions stand condemned by this report and by the contemptuous dismissal that Mr Justice Stewart, the head of the National Crime Authority and the choice of the Government for that job, has given to the allegations which, in effect, provoked a great waste of public money. On 20 April 1982 the Foreign Minister stated:

There can be no doubt that Nugan Hand was involved with the CIA and in arms dealing.

A good straight forward assertion, was it not?

Mr N. A. Brown—Who said that?

Mr SPENDER—The Foreign Minister said that. He also stated:

Quite frankly, on its record, only people who would accept that sort of guarantee from the CIA——

That is, that the CIA was not involved——

would be the sort of people who would believe Ronald Biggs when he said that he had never travelled by train. The CIA had a deplorable record.

The Foreign Minister of this country honourable members must not think that this has been forgotten was equating the CIA with a bank robber. The Central Intelligence Agency is a most important agency to the United States Govern-

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that Government, to
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this. He stated:

His reasons——

that is Mr Hand's reasons

for this course of action——

that is the recruitment o
former personnel of the
forces, including Admiral
of the Nugan Hand Bank—

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The Commissioner reviewed
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which was being thrown arou
he will remember. I am glad t
present in the chamber. I h
copy of the *Hansard*. What di
art say? At page 743 of the re

Before reviewing the evidence of
each of whom came forward volu
dence to the Commission in the

ment. It is most important to the security of that Government, to the free world and to this country. It should not be thought that recollections are so short overseas that people will not think that these statements portray the true views of the Foreign Minister.

Time does not give me the opportunity to go in greater detail into what the Foreign Minister said on those occasions but it is perfectly plain that he was willing to quote any book or any newspaper article and to make any statement, in the most categorical of terms, against the CIA. So what did we have? When this Government got into power we had an enlargement of the terms of reference. We now have the result of that inquiry. Instead of dealing with it in short terms, let me quote from what Mr Justice Stewart said in his contemptuous and painstaking dismissal of the charges against the CIA, because charges they were. At paragraph 4.3.9 on pages 741, when dealing with the looseness of the assertions that had been made, he referred to the terms under which certain senior former members of the United States military had been recruited into Nugan Hand and the reasons for this. He stated:

> His reasons——

that is Mr Hand's reasons——

> for this course of action——

that is the recruitment of senior personnel or former personnel of the United States military forces, including Admiral Yates as the Chairman of the Nugan Hand Bank——

> were twofold; first, the impression imparted as a result of the presence of such men with distinguished careers behind them did much to instil confidence in potential depositors with the Bank and, second, their knowledge of particular areas of South East Asia was of practical significance because it was in these areas that the Bank concentrated its efforts.

The Commissioner reviewed the actions of the seven persons, including Admiral Yates and former generals, all of whom gave evidence voluntarily to the Commission. The former chairman, Admiral Yates, travelled to Sydney. He was the man named in this House by the present Foreign Minister in the context of his allegations against the CIA, Nugan Hand, gun-running and the whole lot of that left wing farrago of nonsense which was being thrown around at the time, as he will remember. I am glad that the Minister is present in the chamber. I hope that he has a copy of the *Hansard*. What did Mr Justice Stewart say? At page 743 of the report he stated:

> Before reviewing the evidence of these seven persons, each of whom came forward voluntarily and gave evidence to the Commission in the United States during January 1985, something should be said concerning what other evidence has established about the Group generally. The CIA allegation should not be looked at in isolation. On the contrary, it should be examined in the light of the Commission's general conclusions concerning the activities of the Group and the principals who controlled it. Such an exercise will provide a proper basis on which to consider a question that must arise: why, for what conceivable reason, would a powerful agency of the United States Government use or allow itself to be used by the Nugan Hand Group or any of its principals?

He continued:

> The Commission has attempted to make clear in this report that despite all the trumpeting on the part of Messrs Nugan and Hand, despite the claims of massive turnover in securities trading by Mr Nugan, despite the range of financial services offered in the glossy brochures, the reality was always that of inept individuals, lacking in capital, devoid of commercial skills and, in the case of Messrs Nugan and Hand persons capable of the grossest forms of dishonesty——

persons who, at page 744, he characterised as being 'neither men of learning nor articulate'. He went on to ask a further question about the CIA—a question which this Government should have answered before it extended the terms of reference to include that matter and the expenditure involved. He said:

> Next to be considered is the question of what, if any, objective evidence exists to support the CIA allegation in any of its forms which fall within the terms of reference. The answer is that there is simply no objective evidence that the CIA used or was used by the Nugan Hand Group in or in connection with any of the Group's activities and, in particular, in circumstances where any criminal law of the Commonwealth or the State of New South Wales was contravened.

At page 745 the Commission was at pains to point out that apart from taking evidence in the United States, it took a number of other steps to ensure that no reasonable avenue of inquiry was overlooked. It sought assurances from the CIA, assurances which the present Foreign Minister, the then Leader of the Opposition, dealt with with such contempt when they were referred to in this Parliament—that is, the Ronald Biggs assurances. The Commission also noted that there had been an inquiry by the United States Senate Select Committee on Intelligence as a result of allegations appearing in the *Wall Street Journal*. As a result of the inquiry, the United States Senate Select Committee concluded that the allegations were false and unfounded.

Mr Young—They were American allegations though, weren't they?

Mr SPENDER—Yes. They were allegations made in the *Wall Street Journal* concerning Nugan Hand. If the Minister has looked at page

746 of the report, and if he has read it, he will see reference to that. What did the Commission do? The Commission invited Admiral Yates to come and give evidence. I quote from page 746 which states:

> . . . the Commission first invited Admiral Yates to come to Sydney to give sworn evidence in confidential session. Admiral Yates accepted the invitation and gave evidence in Sydney to the Commission on 10 and 11 December 1984.

As the Commission pointed out, the other six former military men, or men associated with the United States Government in a senior position, also gave evidence voluntarily—one in Los Angeles and five in the Australian Embassy in Washington, DC. So much for that absurd left wing view of the world which the former Leader of the Opposition was then perpetrating. What did Mr Justice Stewart say about the evidence that had been given? He said at page 751 of the report:

> The Commission accepts the evidence of these witnesses. Indeed, except for Admiral Yates and General Black, it is difficult to see how any of the others could under any circumstances be seen to have played a significant role in the activities of the Nugan Hand Group given the fact that their employment on behalf of the Group did not commence until a very late stage in the life of the Group. Furthermore, the evidence of these witnesses is consistent with the objective evidence summarised by the Commission above [see 4.3.15-4.3.18]. None of these witnesses is contradicted by any credible evidence.

Some of those witnesses had been named by the then Leader of the Opposition. Page 1573 of *Hansard* of 20 April 1982 records that after reference to what had been written in a book—he quoted from a book—he said:

> That is more than enough substantial evidence to justify an investigation of CIA activity in association with Nugan-Hand. The people who have been associated are: Admiral Yates——

he was the former chairman, who came to Australia and gave evidence——William Colby——

he was certainly a former and very high-ranking member of the CIA and gave evidence——

General Ed Black——

yes, he gave evidence——

Guy Pauker——

Yes, he gave evidence. The evidence was accepted in all respects. As Mr Justice Stewart pointed out, it was supported by the objective evidence. That is another quote of which we should remind ourselves because this illustrates the thinking of the Foreign Minister when it comes to the United States intelligence agencies and indeed the United States Government. Has his opinion really changed so much over the past two or three years? On that occasion he said:

> It seems to be an extraordinary coincidence that they all found in a short time that Nugan Hand was a favourite parking station for retired CIA and military officers of United States forces. One has substantial grounds for believing that the CIA operatives were not retired, if indeed CIA operatives ever retire.

I invite honourable members to read the report and to see who the CIA operatives were. In fact, most of those people had no direct association with the CIA. As I have said, Colby, of course, did. Colby is a lawyer. The famous card that was found in the pocket of the dead Mr Nugan was a card given by Colby of dates that he would be available for consultation by Nugan. If honourable members want to check on whether Colby is a lawyer they should go to his offices in Pennsylvania Avenue, Washington DC. I have been there. He is carrying on practice as a lawyer. That was the explanation that was given and accepted by the head of the National Crime Authority who saw all those witnesses.

Let us not think that the kinds of views that had been expressed by the person who is now the Foreign Minister have been forgotten by the United States Government. What is the truth of the matter in relation to the parts of the terms of reference which caused, among other things, the Commission to spend a great deal of time and trouble in investigating the CIA allegations and which caused it to go to the United States? First, as I have said, we have had a vast expenditure of public money. Second, we have a complete vindication of the opinion given by the then Attorney-General, Senator Durack, and the then Solicitor-General, Sir Maurice Byers, who said in effect that there was no justification for extending the terms of reference to inquire into the CIA allegations. Third, after this exhaustive investigation, we have had what amounts to a condemnation of the allegations so easily made by the Leader of the Opposition, as he then was, which were accepted by this Government—one can only assume they were accepted by the Government, because the Government initiated the terms of reference—as the basis for this inquiry, an inquiry which was into allegations based on gossip, hearsay and sensationalism. The report, as I have said, accepted entirely the view which was being put by the then Government in relation to the CIA. By what the report says and by what it finds, it condemns the then Leader of the Opposition for what he said about the CIA.

Remember this: How would we feel if another government sought to investigate allegations made

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Madam DEPUTY S
Order! The honourab
expired.

Debate (on motion
adjourned.

STANDING COMM
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Ministerial

Mr PETER MORRI
for Transport)—by leave
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in, let us say, the United States Congress concerning the Australian Security Intelligence Organisation? Might we not think that that was an outrageous intrusion into our affairs? Might we not think that the person making the allegation was not well disposed to us basically or in any way? Is that not the truth of the matter? Do we really think that the Foreign Minister has changed his views about the United States? We do not.

Mr Hand—They are discredited all round the world. You are not defending them, are you?

Mr SPENDER. What better vindication do we have than that lone voice from the limping Left? Lastly, let me say this: Too many people have been injured who have had it said of them that they were involved in Nugan Hand because they knew somebody in the Nugan Hand organisation, because they once worked there or because they invested with it. Let the whole report be a reminder that guilt by association is something that should be flung out of this Parliament and with it should go the members of the Australian Labor Party who are so prone to exercise that luxury of traducing reputations of people outside the House who have no effective right to answer.

Madam DEPUTY SPEAKER (Mrs Child)—Order! The honourable member's time has expired.

Debate (on motion by **Mr Chynoweth**) adjourned.

STANDING COMMITTEE ON ROAD SAFETY

Ministerial Statement

Mr PETER MORRIS (Shortland—Minister for Transport)—by leave—I am pleased to have the opportunity to respond to a report to the Parliament by the House of Representatives Standing Committee on Road Safety on 'Road Safety Generally'. Road safety remains our most horrific social problem, and despite the publicity and alarm created by other causes of death such as drug overdoses or violent crime, nothing anywhere near approaches the trauma and suffering of death on our roads.

As the Prime Minister (Mr Hawke) said in his opening speech to the National Road Safety Symposium last year, more Australians have been killed on our roads in the last 12 years than died on active service in World War II. There is a high degree of complacency within the community and it is significant that we have within this Parliament a committee with the specific charter of inquiring into the ways and means by which this senseless slaughter on our roads might be lessened. Consistent with the Government's high priority for road safety, the Road Safety Committee—and the Transport Safety Committee of the House of Representatives, as it is now known—has the full support of this Government.

Before attending to the detail of the Committee's report I think it might be useful to provide some perspective to the issue and to reflect on the progress which has been made nationally in recent years. Current figures for road fatalities are slightly lower than the equivalent figures of 20 years ago—despite an increase of some 1.5 million in the population and an extra three million vehicles on the roads. It is not suggested that we are winning the road safety battle but we are not losing it either.

A road crash can involve failure of either one or a combination of three elements—the vehicle, the road or the driver. More often than not it is the driver. The Federal Government supports a comprehensive approach to road safety which addresses these three factors. Let me give some examples of what has been done or is being done to further improve road safety. Vehicle safety design standards have been significantly upgraded and we will be moving towards international standards where further improvements can be made; a new certification system was introduced this year, giving greater assurance that vehicles comply with the Australian Design Rules; and we are reviewing vehicle recall arrangements to ensure their full effectiveness.

Better roads mean safer roads. We have already provided a major boost to Federal road funding—in fact, an 82 per cent increase over 1981-82, the last full year of the previous Government. The recently announced Australian land transport program will be the greatest road building and maintenance project in Australia's history. It will guarantee a set share of fuel excise indexed to the consumer price index. In 1985-86 a record $1,245m will be provided by this Government for road improvements. We are already on the way towards encouraging more responsible attitudes and skills in those who drive upon the nation's roads. Perhaps the most important initiative taken to date is in the driver licensing area. Our graduated licensing concept—extending the on-road experience of novice drivers—has been agreed with by the States and key elements are now being picked up in State licensing arrangements. Road safety research and promotion efforts have been considerably augmented. Underpinning the Federal

Mr Fisher

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FINANCIAL REVIEW, Thursday, November 28, 1985

Auditor rules examined on release of Nugan Hand report

By GREG EARL

The Federal Government is considering the need for legislation to specify the duties of auditors and for the introduction of new rules covering bank opinions on clients as a result of the findings of the Royal Commission into the Nugan Hand Bank.

It is also considering how to gain access to banking information from the Cayman Islands and negotiating Australia's first bilateral judicial aid treaties with non-Commonwealth countries as a result of the royal commission's investigative experiences.

While the commission report, which was tabled in the Federal and NSW Parliaments yesterday, dismisses most of the more sensational allegations about the bank, it revealed substantial loopholes in the way companies could present their financial position to the public.

The report says: "The importance of the audited accounts in respect of a company such as Nugan Hand Ltd passing itself off as a merchant bank cannot be overstated.

"The inception and subsequent progress of the Nugan Hand Group was effected by the presentation of a public image of financial strength and commercial expertise when the converse was in fact true.

"The key to an understanding of how it was that the Nugan Hand Group was able to be spawned in Australia, and rapidly expand overseas, is to be found in the methods used to give the published accounts of Nugan Hand Ltd a grossly false appearance."

While the commission revealed that the bank effectively ignored company law for six years, the Federal Government has only committed itself to considering a response on this matter in collaboration with the States, indicating that any action on the report may be a long time coming.

The Royal Commissioner, Justice Stewart, who now heads the National Crime Authority, was commissioned in 1983 to inquire into the activities of the 29-company Nugan Hand Group, which started in 1973 and collapsed in 1980.

The final report revealed how the group hid a structure of false balance sheets, exchange control violations and tax avoidance behind a facade of confident public relations for six years until the death of one of its principals attracted public attention.

But the report dismisses assertions that the group knowingly traded in drugs or guns, or that it was a US Central Intelligence Agency front.

The Government is considering the recommendation that the scope of an auditor's duty to search for fraud in company accounts be codified, that the role of an auditor and accountant be legally separated and that auditors who knowingly sign false accounts be guilty of criminal offence.

A working group is examining a recommendation that a set of criteria be established for banks to be followed when they issue opinions concerning their clients' financial standing and worth.

The commission found that the standard opinion prepared by the ANZ Bank, which Nugan Hand used internationally to promote itself, lacked the desired level of accuracy and content.

It also went outside acceptable limits by omitting the companies' profit, while including details which went outside the ANZ's direct knowledge.

The commission also questioned the relationship between CitiNational Securities Corporation and National Discount Corporation and Nugan Hand over commercial arrangements which allowed Nugan Hand to make false claims about its turnover and securities trading.

But the commission found that the key to the survival of Nugan Hand was its ability to gain auditors' certificates.

The report said this situation was partly caused by a continuing disagreement within the auditing profession over the precise responsibility of an auditor in examining company accounts.

It said legislation was needed to clarify this issue because it was clearly unsatisfactory for there to be a difference between the duty as perceived by the auditor and the understanding of the client and those who deal with the company on the basis of its accounts.

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Final Report Volumes 1 and 2

Senator DURACK (Western Australia) (3.20)—I move:

That the Senate take note of the paper.

The report of the Royal Commission of Inquiry into the Activities of the Nugan Hand Group, as we have come to expect from Mr Justice Stewart, is a massive one. He has made inquiries into the Clark syndicate and its ramifications. In dealing with the report I do not propose to go into any detail. Indeed, in the five minutes alotted to me for discussion of the report this afternoon I do not have the time to do so. The interesting aspect of the report of the Royal Commission is the way in which the Royal Commission rejects the allegations of the connection between the Nugan Hand Bank and the Central Intelligence Agency, of the bank's connection with arms running, gun running, and of the claim that it was a major drug trafficker, although some of its activities may have involved the laundering of funds for drug syndicates.

The interesting aspect of this matter is that these charges were made by the present Minister for Foreign Affairs, Mr Hayden, when he was Leader of the Opposition at another time. In fact, he made these very dramatic allegations about Nugan Hand in April 1982. I think it is fair to say that if those allegations had not been made by Mr Hayden there would not have been the extension of the terms of reference of Mr Justice Stewart to include the activities of Nugan Hand. The findings of the Royal Commission on Nugan Hand reveal an organisation which was totally inept and dishonest. People with very little ability took part in criminal activities. Unfortunately, it has become a familiar picture where people such as that want to big-note themselves and become involved in setting up a merchant bank and in other commercial activities of a highly dubious, if not criminal, kind. There was a lot of publicity about this bank and the criminal activities of those who led it.

The matters could have been dealt with quite satisfactorily by a police task force—there were ones in existence at the time—a law enforcement body, a police force itself or by inquiries from corporate affairs commissions. There were perfectly adequate bodies available to investigate an organisation of this kind. The organisation received a lot of publicity. The present Minister for Foreign Affairs, the then Leader of the Opposition, tried to get in on the act. He made extravagant accusations and claims which got him some headlines and created such a hullabaloo that the then Government decided the best thing to do was to refer the matter to Mr Justice Stewart who was already very heavily and deeply engaged in a major inquiry into the Clark syndicate.

The reality is—this is evident from the report which has just been tabled and the study of which will certainly repay such consideration—that there is really no objective evidence concerning these allegations. The evidence by various witnesses concerning the allegations to the effect that there was CIA involvement was, in fact, backed up by the objective evidence that there was no such involvement. There was a vast increase in the expenditure of public money by extending the terms of reference of Mr Justice Stewart to deal with allegations which, as I said, were made by the present Minister for Foreign Affairs, all of which could have been perfectly and properly dealt with—or at least the allegations concerning the dealings of this company could have—by an ordinary law enforcement agency, of which there were many involved in similar activities and inquiries at the time. I think that this represents a very good example of how politicians should be very careful about coming into this chamber or the other place and making wild allegations and forcing special inquiries to be made into them when, as we have found in this case, the royal commission finds that there is no substance at all in the allegations.

Question resolved in the affirmative.

AUSTRALIAN POSTAL COMMISSION

Annual Report 1984-85

Senator MAGUIRE (South Australia) (3.25)—I move:

That the Senate take note of the paper.

The 1984-85 annual report of the Australian Postal Commission is the tenth annual report of one of Australia's largest public enterprises. I think that in debating this report today we should take note of that fact. The Commission made an operating surplus for the year under review of $24.5m. I note that it is one of the few postal services in the world which does return an operating surplus. The Commission is one of Australia's major employers—in fact, it is probably in the top 10 employers in the country—with a full time official staff of over 34,200. When the previous Government was in power under Mr Fraser and Mr Howard, the then Minister for

QUESTION TIME BRIEFING: STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP - BANKERS OPINIONS

Possible Question: What steps has the Government taken to establish criteria to be followed by banks in respect to the issuing of opinions concerning their clients, as recommended by Mr Justice Stewart.

Possible Answer

- As mentioned by my colleague, the Special Minister for State in his statement accompanying the tabling of the Report, a working group of officials is currently reviewing criteria followed by banks in Australia in issuing opinions on the financial standing or worth of their clients with a view to recommending an appropritate response by the Government on this matter.

BACKGROUND

As the term implies, "bankers' opinions" are essentially references or opinions provided by banks, normally to other banks, on the financial standing or worth of their clients. The Commission's concern regarding this matter arose from the alleged manner in which the Nugan Hand Group was able, through a series of negotiations with a Branch Manager (now deceased) of the ANZ Bank through whom it dealt, to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

The working group (comprised of officials from Treasury, the Reserve Bank and Attorney-General's Department) has received information from the Australian Bankers' Association on criteria and practice in issuing such opinions in Australia and is in the process of collecting information on practices in other countries and in establishing the legal standing of such opinions in Australia.

Sgd M.C.

R.M. Beetham
First Assistant Secretary
28 November 1985

QUESTION TIME BRIEFING: STEWART REPORT ON ACTIVITIES OF NUGAN HAND GROUP - ALLEGED BREACHES OF EXCHANGE CONTROL REGULATIONS

Possible Question: What action is the Government taking concerning the alleged breaches of Exchange Control Regulations as identified by the Commission?

Possible Answer:

- I am advised that the Australian Federal Police are currently investigating aspects of the alleged breaches of the Banking (Foreign Exchange) Regulations as they then applied by persons associated with the Nugan Hand Group and evidence uncovered by the Royal Commission in this regard has been brought to the attention of the Director of Public Prosecutions for whatever action he may deem necessary, consistent with his responsibilities for such matters.

BACKGROUND

Through a process of comparing records of the Nugan Hand Group with schedules of approvals granted by the Reserve Bank to the Group and persons associated with it to undertake foreign exchange transactions, the Royal Commission uncovered a considerable number of instances of transactions apparently having been effected in breach of the Banking (Foreign Exchange) Regulations as they then applied. The transactions concerned have been examined by the Reserve Bank which has also concluded that breaches of the Regulations appear to have been involved. The Bank's findings in that regard have been referred to the Director of Public Prosecutions consistent with his responsibilities for prosecutions under the Regulations (you may recall that your power to consent to such prosecutions was delegated to the DPP earlier this year) and we have been advised that the Bank has facilitated access by the Australian Federal Police to its files on persons involved in these transactions.

Sgd M C.

R.M. Beetham
First Assistant Secretary
28 November 1985

John Ley is handling Bankers' Opinion matter. ~~He~~ to him from General Counsel advises that bankers opinion letters have no legal implications — he was hoping that advice from his Washington guy would assist in a response to us

I offered to send him copies of responses from handler Tokyo

Done 29/11

HHL
28/4

Nugan Hand: fraud, but no CIA link

No drug-running. No gun-running. No involvement with the US Central Intelligence Agency. These are the essential findings of Justice D.G. Stewart, in the final report of his Royal Commission into the Nugan Hand Group.

He finds that criminality by Nugan Hand was confined to the fraudulent conduct of company business under NSW law and, under Commonwealth law, to alleged breaches of the exchange control and taxation regulations.

At the point where the report deals with those allegedly responsible, however, 205 paragraphs have been censored. As a result, there are no details of who the accused people are and what charges it is recommended they should face.

The Nugan Hand Group collapsed in early 1980, after one of its founders, Frank Nugan, was found shot dead in his car near Lithgow. The coroner said it was suicide.

The other founder, Michael Hand, did not avail himself of the opportunity to give evidence to the Royal Commission.

It is clear from the report that the investigation was hampered by the destruction of documents at the time of Nugan's death, and by the fact that many more documents were beyond the commission's reach, protected by the law of the Cayman Islands, where the Nugan Hand Bank was incorporated.

Vigorously rejecting the theory of CIA connections, Justice Stewart says:

"The group was at all times insolvent.

"Why, for what conceivable reason, would a powerful agency of the United States Government use or allow itself to be used by the Nugan Hand Group or any or its principals?

"There is simply no objective evidence that the CIA used, or was used by, the group."

He is dismissive, too, of nearly all the wide-ranging allegations about arms dealing.

He lists 14 separate allegations, and rejects 11. Of the three survivors, two deal with attempts to set up arms deals with South Africa or Rhodesia, and one to help finance the purchase of military hardware and software using Libyan letters of credit.

In the end, however, Justice Stewart finds that these enterprises, like nearly everything else Nugan Hand touched, came to nothing.

The South African deal came down to the proposed export of 10 second-hand pistols which were never sent because the Sydney supplier, the Loys Arms Corporation of Surry Hills, was never paid.

The Libyan venture petered out when the Nugan Hand client, a one-time US Congressman, Edwin Wilson, got his credit facility from another bank. He is now in jail for gun-running.

Turning to the alleged involvement of Nugan Hand in drug-trafficking, Justice Stewart says that Nugan Hand was not involved except to the extent that drug money was deposited with two of its companies, Yorkville Nominees and Mars Road Investments.

Justice Stewart says Nugan and Hand were prepared to accept cash deposits through these companies, no questions asked.

Where he does find Nugan Hand broke the law is principally in the field of currency exchange.

He identifies 370 contraventions of exchange control laws involving a total amount of $16.3 million.

He also notes that many of the regulations flouted by Nugan Hand have since been removed by the Federal Government in the process of deregulating the money market.

As for tax evasion, Justice Stewart says the evidence does not permit him to estimate how much income tax the group evaded. Yorkville and Mars Road figured prominently here as well.

Justice Stewart's recommendations are concentrated on tax havens, auditing, bank regulation and the conduct of royal commissions.

He recommends that:

- The Australian and British Governments strike an agreement about access to documents of companies registered in the Cayman Islands and other tax havens.
- The duty on auditors to detect company fraud should be better defined, and other procedures for the preparation and vetting of accounts tightened up.
- A committee be set up to establish criteria to be followed by banks in the issuing of opinions about their clients' financial standing.
- The National Companies and Securities Commission be asked to review the Companies Code to make it harder for accounts to be falsified, as they were with the Nugan Hand Group.

The Special Minister of State, Mr Young, said last night that the Government was moving to implement some of the recommendations, and was considering the implementation of others.

PAGE 4: Nugan Hand: the final chapter.

The Sydney Morning Herald
P. 1, 4 28 Nov. '85

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NUGAN-HAND — THE FINAL CHAPTER

Bank's US recruits were in touch with CIA

Reports by LINDSAY MURDOCH, DENIS MULLER and ROD FRAIL

Four former American military officers who worked for the failed Nugan Hand banking group inevitably would have had contact with Central Intelligence Agency information, the Royal Commissioner, Justice Stewart, reported yesterday.

He said that inevitably the four men, including Admiral E.P.Yates, the former US Navy Chief of Staff for the Pacific region, would have from time to time met personnel engaged in the production and dissemination of CIA intelligence.

The commission's final report revealed that the firm of former CIA executive director, Mr William Colby, was paid a retainer of $10,000 for work for the Nugan Hand group.

The report detailed Mr Colby's

THE CIA LINK

dealings with Frank Nugan. Colby testified that he had met Nugan three or four times in late 1979 in connection with providing legal advice.

In early 1980, Colby said, he met Nugan and gave him a business card with dates of his itinerary for a trip to South East Asia.

"This was the card that was subsequently found on Mr Nugan's body when he was discovered dead by police, near Lithgow, in NSW," the report said.

Justice Stewart referred to evidence before the commission that the bank's co-founder, Michael Hand, had served in Vietnam with the elite US airborne corps known as the Green Berets and that it was entirely possible that this unit would have had CIA support.

But Justice Stewart said that he had uncovered no objective evidence to support allegations that the CIA in some way used the Nugan Hand Group, or was used by the group.

He qualified his finding to refer to evidence which fell within his terms of reference and in particular "in circumstances where any criminal law of the Commonwealth or the State of New South Wales was contravened."

The commissioner said that it appeared that Hand was primarily responsible for engaging Admiral Yates as the bank's first president.

"Mr Hand then conceived the idea of enlisting the services of other United States ex-military personnel who had retired after having held high rank and who had seen service in South East Asia."

"His reasons for this course of action were twofold; first, the impression imparted as a result of the presence of such men with distinguished careers behind them did much to instil confidence in potential depositors with the bank and, second, their knowledge of particular areas of South East Asia was of practical significance because it was in these areas that the bank concentrated its efforts."

The CIA told the commission last year that it categorically denied any involvement in the affairs of Nugan Hand.

The denial followed a 1983 finding of the joint Commonwealth-New South Wales task force that its investigations of Nugan hand found many links between individuals connected with the bank and individuals connected in very significant ways with US intelligence organisations, specifically the CIA and the Office of Naval Intelligence.

Justice Stewart yesterday discredited evidence given by a former Nugan Hand sales representative, Mr Neil Evans, that Hand had told him that Hand had entered into arrangements whereby the bank would disseminate money for the CIA and that another of the bank's agents, Mr Bernie Houghton, was a CIA agent.

Justice Stewart said that he accepted the evidence of Mr Houghton to the commission that he was not a CIA agent. He had served in the US Airforce weather service from 1942 until 1946.

". . . an examination of Mr Evan's transcript reveals contradictions and inconsistencies and for those reasons the commission does not accept such evidence," Justice Stewart said.

He added that it was difficult to imagine why a professional group like the CIA would use or think of using a group such as Nugan Hand without first making a thorough check of its bona fides.

'Even a cursory check would have revealed shortcomings which would undoubtedly make the CIA shy away from having anything at all to do with such a group," he said.

Justice Stewart . . . they created false picture.

Justice Stewart said that he accepted the evidence of seven former US military officers who had testified before the commission in Australia or the US.

Admiral Yates told the commission in Sydney that in his view it was ridiculous to suggest that the CIA was somehow using the banking group or had some special connection with it.

Admiral Yates also told the commission that he was responsible for the recruitment to the bank of a number of former US military officers as advisers.

Justice Stewart commented that the Nugan Hand group was grossly mismanaged by Frank Nugan and Michael Hand, neither of whom was a man of learning, or articulate — "every opportunity was taken by them to create a totally false picture with a consistent theme of 'it is the appearance that matters.'"

Decorated Green Beret with pie in the sky schemes

MICHAEL HAND

Michael Jon Hand and his partner, Frank Nugan, were as different as chalk and cheese.

People who worked with them characterised Hand as very much the motivator, a gung-ho pusher of people who played a promotional role in the bank. Hand seemed to regard Nugan as his intellectual superior.

Admiral Earl Yates, the retired US Navy officer whom Hand recruited to work for the bank, told the royal commission Hand was a practising Christian Scientist. Whenever they travelled together they would attend church services on Wednesdays and Sundays. Hand would occasionally address the congregation.

Hand was born in New York on December 8, 1941. Twenty years later he graduated from the University of Syracuse, New York, with a degree in forestry.

He enlisted with the US Army in 1963 and served until 1966. During the Vietnam War he was in the Green Berets, the elite airborne unit, and won the Distinguished Service Cross, America's second highest award for bravery.

He came to Australia on rest and recreational leave in the late sixties and met Bernie Houghton, proprietor of the Bourbon and Beefsteak restaurant in Kings Cross, where many of those involved in Nugan Hand were to first meet.

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Frank Nugan (left) and Michael Hand . . . chalk and cheese.

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Yates himself gave an unflattering character assessment of Hand to the royal commission.

Citing billion dollar oil deals, loans and weapons sales, Yates described Hand as having delusions of grandeur, becoming involved in "pie in the sky schemes" and of "chasing rainbows".

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Flashy, and a pathological liar obsessed by religion

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Michael Hand did not approve of his partner's excessive drinking. He often knocked over Frank Nugan's full glass of whisky.

But Frank Nugan changed shortly before his death. In April 1979 he quit his drinking, which began in the early morning and, according to the report, "embraced religion with a conspicuous intensity".

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According to the report, by Christmas 1979, Nugan was clearly depressed. The thought of exposure of the massive fraud perpetrated by him on the Nugan Hand group had wounded his pride. Nugan worried about exposure as a financial failure.

". . . his generally unbalanced mind led him to take his own life," the report says.

Nugan's lifestyle had become legendary. He lived at Coolong Road, Vaucluse, in a prestigious house overlooking the Harbour. Nugan Hand Ltd paid the bills.

Overseas, notably in the Philippines, his lifestyle was ostentatious.

It was at a conference in Manila in July 1979 that Frank Nugan was at his best. He hired a luxurious penthouse suite at the Philippines Plaza Hotel at a cost of thousands of dollars a day. He hosted lavish cocktail parties, hired two Mercedes to wait outside the hotel 24 hours a day and publicly announced a donation of $US12,000 to a social welfare fund.

"Understandably, his conduct during the course of the conference gave rise to a great deal of criticism with references to his vulgar display of ostentation, his gauche and totally immature behaviour and his incredibly embarrassing splash," the report said.

Nugan was said to be remarkably diverse. Some witnesses before the commission described him as the type of man to hide his emotions. Others said he possessed charismatic qualities. The commission said it confirmed he was a pathological liar.

Nugan made some frank admissions of the illegal activities of the group at a legal division meeting in 1979: "The problems in the firm basically stem from the top, rather than the bottom. We've got people who at present get away with murder and never give a damn, because at one time or another you were either inside a bottle of scotch or in a church or whatever in this period.

"We are reborn, those sons of bitches who are passing under our name, prior to today, including me. We are different people. I am bigger and smarter than Alan Bond. High quality people like me who got paid $100,000 a day to work something like that out."

Francis John Nugan was born in Griffith on December 30 1942. He graduated in law from the University of Sydney in 1963 and later obtained a Masters in the US.

Nugan was obsessed in achieving success. He met Michael Hand in 1968. They became good friends.

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Deposits accepted

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Decorated Green Beret with pie in the sky schemes

MICHAEL HAND

Michael Jon Hand and his partner, Frank Nugan, were as different as chalk and cheese.

People who worked with them characterised Hand as very much the motivator, a gung-ho pusher of people who played a promotional role in the bank. Hand seemed to regard Nugan as his intellectual superior.

Admiral Earl Yates, the retired US Navy officer whom Hand recruited to work for the bank, told the royal commission Hand was a practising Christian Scientist. Whenever they travelled together they would attend church services on Wednesdays and Sundays. Hand would occasionally address the congregation.

Hand was born in New York on December 8, 1941. Twenty years later he graduated from the University of Syracuse, New York, with a degree in forestry.

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Deposits accepted regardless of source

The founders of the Nugan Hand banking group were prepared to accept cash deposits through their companies regardless of their source, Mr Justice Stewart found.

He said his commission identified a small number of deposits which were drug moneys, but the evidence did not allow him to assess what proportion of cash deposits were drug funds.

THE DRUG LINK

Many allegations have been made since 1977 that the Nugan Hand group was involved in drug trafficking. Mr Justice Stewart concluded that there was no evidence to support assertions that the group was knowingly involved in the distribution, financing or importation of drugs.

He found:

- No evidence that Hand and Nugan were involved in heroin trafficking on a grand scale, as alleged by a convicted drug trafficker, Andrew Wellington Lowe.
- That a Nugan Hand employee, a Mr Shaw, identified to the commis-

No guns to South Africa, and no uniforms to Libya

The Nugan Hand Group was not involved in arms dealing, the Royal Commissioner has found.

In Justice Stewart's opinion, the nearest the group came to gun-running was a proposal to export 10 second-hand pistols, probably to South Africa. Like so many other Nugan Hand ventures, as recounted by Justice Stewart, it came to nothing.

He lists 14 separate allegations about arms deals. Eleven of these he rejects out of hand, including one sent on to him by the Costigan Royal Commission.

Of the three he takes seriously, two relate to South Africa and the third to the Middle East.

South Africa

The first allegation, from an article in *The Sun-Herald*, based on a report of the Joint Federal-NSW Police Task Force into Drug Trafficking, was that Michael Hand's activities in South Africa during his residence there from December 1974 until March 1976 appeared to have included attempts to arrange arms shipments.

Justice Stewart said the evidence suggests Hand did have an interest in arms dealing prior to his visit to South Africa and possibly prior to his association with Nugan, and that during his time in South Africa, Hand was interested in armaments

THE GUN-RUNNING

Mr Loy produced to the CAC a South African and a Singaporean import permit and an Australian export permit. No company within the Nugan Hand Group is named on any of the documents.

Other documents produced by Mr Loy included a letter dated November 14, 1975, from Loy Arms Corporation to Nugan Hand Inc, submitting prices for Smith and Wesson and Colt revolvers. It indicated that the supply of 20,000 revolvers per year over an unspecified number of years had been discussed.

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Mr W. Hans (an employee of Nugan Hand) told the Corporate Affairs Commission that he did not recall any inquiry by Hand for 20,000 handguns but said Hand "probably

which were discovered after his death.

One note mentions "military weapons Rhodesia, pay in gold, recoilless rifles, mortars 60/80mm, M79 Grenade launchers, quad 50 calibre machine-guns". A second, and possibly a third, note referred to ivory.

Mr Hans had told the Corporate Affairs Commission that he and Hand had discussed the matter of trade in ivory while Hand was in South Africa. The ivory was available, but trade was illegal and nothing eventuated.

The Middle East

The final allegation about arms dealing to which the royal commission attaches any significance, concerned the Middle East.

The commission said it was satisfied that negotiations between Edwin Wilson, one-time US Congressman, now in jail for arms-trafficking, and Bernie Houghton, whose companies operated the Texas Tavern and Bourbon and Beefsteak restaurant in Kings Cross (where many of the people who later became involved in Nugan Hand first met) in Geneva had occurred, where the possibility of Nugan Hand dealing in Libyan letters of credit to the value of $US22 million had been discussed.

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- No evidence that Hand and Nugan were involved in heroin trafficking on a grand scale, as alleged by a convicted drug trafficker, Andrew Wellington Lowe.
- That a Nugan Hand employee, a Mr Shaw, identified to the commission clients of the group whose deposits Mr Shaw either knew or suspected were the proceeds of drug trafficking.
- That Mr Shaw understood some deposits were "black money", which he understood to refer to "money that was not being declared" for taxation purposes. He did not know the source of the money, but said it could be obtained in many different ways, such as gambling and the removal of cash from a till without declaring it as taxable income.

Mr Justice Stewart also generally confirmed the findings of a 1983 Federal/State task force which found that Nugan knew he was dealing with black money from the Riley group of drug traffickers, but that there was no evidence that Nugan knew any details of the transactions.

He also generally confirmed it was highly probable that Hand knew that the Riley group was involved in drug trafficking and that their requests for use of the Nugan Hand facilities for the movement of money were to further that activity.

Mr Justice Stewart found that the group provided facilities for the transfer of $260,000 from Sydney to Singapore for collection by a member of the Mr Asia drug syndicate.

"However, there is no evidence which suggests that any person associated with the Nugan Hand group knew the moneys were to be used to purchase narcotics," he said.

He found no evidence to support allegations that the Nugan Hand group established an office in Chiang Mai, Thailand, to attract deposits from drug traffickers of the Golden Triangle.

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Justice Stewart said the evidence suggests Hand did have an interest in arms dealing prior to his visit to South Africa and possibly prior to his association with Nugan, and that during his time in South Africa, Hand was interested in armaments dealing and maintained contact with individuals and companies within the Nugan Hand Group.

The Corporate Affairs Commission and the Joint Task Force investigated inquiries made in late 1975 by Nugan Hand personnel with Mr K.J. Loy, of the Loy Arms Corporation, of Surry Hills, Sydney. Mr Loy provided a written quotation, and an order was placed for 10 second-hand pistols. However, Mr Loy did not receive any payment and consequently the firearms were never exported.

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Mr W. Hans (an employee of Nugan Hand) told the Corporate Affairs Commission that he did not recall any inquiry by Hand for 20,000 handguns but said Hand "probably had it in mind" to sell them to whites in South Africa and Rhodesia.

The commission accepts that an export of 10 second-hand pistols was arranged and export approval granted but that the export did not take place.

The second allegation about arms dealing with South Africa arose from correspondence Hand allegedly had with Nugan about arms sales to be paid for with Rhodesian ivory. The source of this allegation was not given, but may have been the notes apparently handwritten by Nugan which were discovered after his death.

One note mentions "military weapons Rhodesia, pay in gold, recoiless rifles, mortars 60/80mm, M79 Grenade launchers, quad 50 calibre machine-guns". A second, and possibly a third, note referred to ivory.

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Houghton told the commission that he was in Geneva at the instruction of either Nugan or Hand. He told the commission the items to be covered by the letter of credit were "military uniforms from Korea or Taiwan for supply to Libya". The Neubauer Bank was to be the drawer of the letter of credit in conjunction with the Dresdner Bank.

"Nothing came of the transaction and they ultimately got the letter of credit from the larger bank," he said.

The commission said it was satisfied the transaction did not eventuate.

The 'Yorkville contra' tax dodge

The Nugan Hand Group easily flouted the labyrinth of foreign exchange laws between 1976 and 1979, and 370 contraventions involving $16.3 million have been identified by the Royal Commission.

The Group moved currency in and out of Australia either without the approval of the Reserve Bank, by an approval obtained by false information or under the guise of approval which had been granted for an entirely different transaction.

It also appeared to have deliberately contravened the monetary laws of other countries, including Singapore, Malaysia and Hong Kong.

Apart from the actual movement of funds in and out of Australia, the Group provided an additional facility to clients which proved popular and also contravened the law.

Known within the Group as "Yorkville contra", there was no actual movement of funds into or out of Australia, but by depositing money with the bank in Australia, a client could obtain an equivalent credit in another country, usually Singapore or Hong Kong, without any record being made of the transaction.

THE MONEY MOVES

Ironically, the report notes, subsequent government deregulation of exchange controls means some of the group's activities would now be legal.

But it adds: "The ease with which the group was able to escape the provisions of the legislation and, in particular, to escape detection by the Reserve Bank suggests that observance of the legislation by professional 'money movers' depended almost entirely on voluntary compliance rather than enforcement by authority."

"Yorkville contras" were so named because in the group's early days clients using this facility were treated as clients of Yorkville Nominees Pty Ltd, a company owned and controlled by Frank Nugan.

In Sydney, Frank Nugan and George Shaw (a director of several Hugan Hand companies) entered transactions in a blue book subsequently lost or destroyed and made payments in cash or authorised the drawing of cheques or the issuing of other forms of payment.

In a Yorkville contra transaction, payment to the client in one country was set off against the client's deposit in another country, extinguishing the original liability.

The group generally charged between 2 and 7 per cent for the Yorkville contra service.

"In return, the client would have money made available overseas without attracting the attention of the Australian authorities.

"There were no risks such as those associated with physically carrying money from one country to another and there were no tell-tale records such as bank statements," the report says.

"The secrecy with which these transactions were accomplished was of course essential to achieve the primary goal of most clients, evading the relevant income tax laws."

A similar facility to the Yorkville contra was known as a "back-to-back loan", the only difference being the two parts of the transaction occurred in the same country.

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Blainey has lent racism legitimacy, says report

By DENNIS SHANAHAN, State Political Correspondent

The NSW Anti-Discrimination Board has accused the historian Geoffrey Blainey of lending "legitimacy" to racism.

The president of the board, Ms Carmel Niland, said in the board's annual report that there was a new racial backlash "couched in new language and full of new reflections on the need for harmony and equality" which was the "new racism".

"This form of racism is characterised by its self-righteousness and by the way it masquerades as legitimate social comment," Ms Niland said.

"It is widespread and fuelled by media reports ranging from the irresponsible and the stereotyped to the blatantly racist.

"Press regulatory bodies do not appear to have the clout to see that agreed standards are met.

"The new racism is lent legitimacy because it is espoused by influential figures who have successfully resurrected the notion that Aboriginal interests, land rights in particular, are in conflict with the economic progress and viability of Australia."

She also said the "immigration debate" – the suggestion that the proportion of European immigrants compared with Asian immigrants should not be allowed to decline because of assimilation difficulties – was not about immigration and nor was it a debate.

"It was an outpouring of anti-Asian hatred, a re-run of an old Australian phenomenon," Ms Niland said.

"Traditionally, and again this year, its victims have been people of Asian appearance.

"With the public statements of Geoffrey Blainey, a subtle shift has taken place: he has lent racism legitimacy.

"We are seeing now that public opinion, once manipulated, becomes a force in itself.

"No doubt, in time, Blainey's assertions will be thoroughly discredited, as is already beginning to happen.

"The harm that has been done remains until concerted action is taken at both levels of government to assert the right of all Australians to go about their daily lives unmolested."

Mr Blainey could not be reached for comment late last night.

AIDS fuel for abuse of rights, board says

By DENNIS SHANAHAN, State Political Correspondent

AIDS and the fears generated by the virus now dominate the complaints made to the Anti-Discrimination Board in relation to homosexuality.

Homosexuals are now being sacked or demoted, harassed by workmates, bashed, denied goods and services, and are the victims of practical jokes, according to the board's annual report tabled in State Parliament yesterday.

Inquiries to the board about discrimination against homosexuals now rate third after employment and sex.

During the year ended June 30 1985, the board received 1,284 complaints under the Sex Discrimination Act, the Anti-Discrimination Act and the Racial Discrimination Act.

With the exception of the Sex Discrimination Act, men outnumbered women as complainants.

The president of the board, Ms Carmel Niland, said in the report the number of AIDS cases in NSW rose remarkably in the past year.

"The legal implications of this medical crisis are frightening," she said. "Media coverage has provoked hysteria about how contagious the disease is, and the lack of medical certainty about the disease's cause and cure and deep-seated societal fears about homosexuality have combined to form a significant challenge to the civil rights of gay men."

The board found that in 1984-85 there were 1,930 inquiries about discrimination against homosexuals and 70 official complaints lodged.

The report said homosexuals were being blatantly harassed in the workplace.

"Harassment takes various forms," it said, "from name calling, snide innuendo or remarks about AIDS, to death threats and the ordering of unwelcome goods.

"One complainant saw a notice in a newspaper advertising his sexuality. Another received a bill for a wooden coffin made out in his name.

"There is little doubt the upsurge in gay harassment in the workplace has been closely connected with the ill-informed AIDS scare.

"Some organisations have gone so far as to consider having antibody tests as a pre-condition of hiring."

In one complaint, two homosexual men who booked a room at a country motel were told to leave because the proprietor said he would "have to burn the bedding because of the risk of AIDS and he did not want to be seen to condone homosexuality."

In another complaint, a homosexual group had a booking for a hotel ballroom cancelled because the hotel did not want to be seen to be attracting homosexuals.

Because of the increase in the complaints the board has decided to follow some overseas practice and provide protection to AIDS sufferers under the "physical impairment" section of the Anti-Discrimination Act.

However, the board admits its jurisdiction is not clear and the final power to provide such protection will only be "finally determined by the courts".

Ms Niland said the challenge to the civil rights of homosexual men was a challenge to the civil rights of every person.

"Homosexual men have been directly discriminated against because it is perceived that they could have AIDS, or they are blamed as the cause of AIDS.

"They have been fired, and refused housing, insurance, airline tickets, dental and surgical service.

"They have been refused entry to discos and refused bar service, and they have been attacked and beaten.

"It is a problem of acute sensitivity given popular fears about the disease and will pose medical, social, legal and political difficulties."

PAGE 7: AIDS figures show some hope.

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BLF forced to lift bans on 10 Victorian sites

By MATTHEW MOORE and KEITH MARTIN

MELBOURNE: Building employers and the Victorian Government claimed victory yesterday in the first round of their latest battle with the Builders Labourers' Federation, forcing its members to lift bans on at least 10 major sites under threat of dismissal.

However, about 120 BLF members were sacked or stood down on another 25 jobs for refusing to bow to the new hardline approach of the Victorian builders and enforcing a series of work bans imposed in support of claims for a 35-hour week.

The second round will be fought in Sydney today with the NSW Master Builders' Association using the same tactic on sites which are disrupted by the labourers' bans.

About 88 Sydney construction sites have been hit with bans in support of demands that the contractors denounce deregistration proceedings. The BLF is also demanding on some sites payment of the 3.8 per cent wage rise and a 35-hour week.

The announcement by the ACTU that other building unions were free to take over BLF jobs on sites facing closure was the signal the builders were waiting for to launch their campaign.

But much will depend on whether other unions demonstrate a willingness to take over the jobs of sacked BLF members.

This is much more likely in NSW where the rival Building Workers' Industrial Union is at its strongest and where it will have the support of the NSW Labor Council.

The State secretary of the BWIU, Mr Don McDonald, said tradesmen would do whatever work was necessary to ensure their continued employment if builders' labourers were stood down.

However, the union's Victorian secretary, Mr Alf Zeeno, said his members would be reluctant to do the work of BLF members despite ACTU approval.

NSW and Victoria are so far the only States where there is widespread BLF industrial action.

The BLF's leader, Mr Norm Gallagher, said the latest attack on the union would fail and that building sites would be kept open during the employers' efforts to bring the BLF issue to a head.

"We will calmly work our way through the situation as we've done many times before," Mr Gallagher said.

The Victorian Minister for Industrial Relations, Mr Steve Crabb, said Mr Gallagher had beaten a tactical retreat as expected, but he was certain the BLF would renew a shorter hours campaign next year.

Mr Crabb said that "if necessary" he was prepared to see the Victorian building industry close down for eight weeks over Christmas if that was required to defeat the BLF demands.

The Federal Minister for Industrial Relations, Mr Willis, told Parliament yesterday that he had taken action to expedite deregistration proceedings against the BLF.

Reflecting confidence that the BLF's current campaign was playing into the Government's hands, Mr Willis said he had already reduced the size of Government submissions in the proceedings and would be looking to further reductions.

Government officials predict that this will enable the commission proceedings to be completed by the end of January.

Speaking on Adelaide radio yesterday, the Prime Minister endorsed the ACTU's decision not to support the BLF in its fight against de-registration.

"For some time now these people have disqualified themselves from the great tradition of Australian trade unionism," Mr Hawke said. "It is time the Australian community is cleansed from the thuggery and evil of the BLF."

Edelsten complains of "bias and prejudice"

Anderson tells police board he won't push off – or shut up

By ROSS DUNN

The Minister for Police, Mr Anderson, has rejected an official finding that the NSW Police Force would be more effective if there was less ministerial interference and more power given to the Commissioner.

Mr Anderson called a news conference yesterday to comment on the annual report of the NSW Police Board, tabled in Parliament this week, which makes these claims.

The report said that the NSW Police Force would be more effective if there was less interference by the minister and more power restored to the Police Commissioner in the day-to-day running of the force.

Mr Anderson said: "It seems to me that if a minister under the Westminster system is to be accountable then surely the minister is entitled to be involved.

"I intend to continue, as I have over the last four years or so, to be involved if I am going to be accountable and indeed to continue with the program of reform."

The report comments that the two civilian part-time members of the board, the chairman, Sir

The report recommended that there should be broad ministerial directives and the third member of the board, the Commissioner, Mr John Avery, be left to manage and allocate police resources.

But Mr Anderson said that many of the improvements in the NSW Police Force over recent years were the result of initiatives by the Government and in particular himself as Minister.

Mr Anderson said that burglaries and car thefts had escalated over a decade; at the same time the police budget had been trebled and the police force strength increased by 30 per cent.

"It took a Government initiative and one in which I was heavily involved to see ... a reduction in home burglaries and a reduction in car thefts," Mr Anderson said.

Other examples of successful Government initiatives in the police force included the strengthening of internal affairs to help remove corruption and the setting up of the Drug Law Enforcement Bureau.

Mr Anderson said that he had a "pleasant" relationship with members of the NSW Police Board, but he added: "They can't tell me to

Miners in threat to ditch wage system

By ERIC CAMPBELL

Coal mining unions are threatening to abandon the centralised wage-fixing system if they are required to make no extra claims in order to win a flow-on of the 3.8 per cent national wage rise.

The threat is being used in support of productivity claims the unions wish to pursue which could be in breach of undertakings required by the Arbitration Commission for the flow-on.

Mr John Maitland, the chairman of the National Liaison Committee which represents the unions, said the coal mining industry had its own industrial tribunal and its own industrial agreement, and was not bound by the prices and incomes accord.

He said the unions were entitled to lodge productivity claims this year under their agreement, and would go ahead with them even if it was seen to breach the accord.

"The accord has done a lot of good things for most Australians," he said. "But if you go out and try and talk to our blokes about the benefits of the accord, they'll say 'hang on, what about the very large productivity in our industry at the same time as a loss of jobs?' They don't see there's been a great

board's annual report that there was a new racial backlash couched in new language and full of new reflections on the need for harmony and equality" which was the "new racism".

"This form of racism is characterised by its self-righteousness and by the way it masquerades as legitimate social comment," Ms Niland said.

"It is widespread and fuelled by media reports ranging from the irresponsible and the stereotyped to the blatantly racist.

"Press regulatory bodies do not appear to have the clout to see that agreed standards are met.

"The new racism is lent legitimacy because it is espoused by influential figures who have successfully resurrected the notion that Aboriginal interests, land rights in particular, are in conflict with the economic progress and viability of Australia."

She also said the "immigration debate" — the suggestion that the proportion of European immigrants compared with Asian immigrants should not be allowed to decline because of assimilation difficulties — was not about immigration and nor was it a debate.

"It was an outpouring of anti-Asian hatred, a re-run of an old Australian phenomenon," Ms Niland said.

"Traditionally, and again this year, its victims have been people of Asian appearance.

"With the public statements of Geoffrey Blainey, a subtle shift has taken place: he has lent racism legitimacy.

"We are seeing now that public opinion, once manipulated, becomes a force in itself.

"No doubt, in time, Blainey's assertions will be thoroughly discredited, as is already beginning to happen.

"The harm that has been done remains until concerted action is taken at both levels of government to assert the right of all Australians to go about their daily lives unmolested."

Mr Blainey could not be reached for comment late last night.

By DENNIS SHANAHAN, State Political Correspondent

AIDS and the fears generated by the virus now dominate the complaints made to the Anti-Discrimination Board in relation to homosexuality.

Homosexuals are now being sacked or demoted, harassed by workmates, bashed, denied goods and services, and are the victims of practical jokes, according to the board's annual report tabled in State Parliament yesterday.

Inquiries to the board about discrimination against homosexuals now rate third after employment and sex.

During the year ended June 30 1985, the board received 1,284 complaints under the Sex Discrimination Act, the Anti-Discrimination Act, the Anti-Discrimination Act and the Racial Discrimination Act.

With the exception of the Sex Discrimination Act, men outnumbered women as complainants.

The president of the board, Ms Carmel Niland, said in the report the number of AIDS cases in NSW rose remarkably in the past year.

"The legal implications of this medical crisis are frightening," she said. "Media coverage has provoked hysteria about how contagious the disease is, and the lack of medical certainty about the disease's cause and cure and deep-seated societal fears about homosexuality have combined to form a significant challenge to the civil rights of gay men."

The board found that in 1984-85 there were 1,930 inquiries about discrimination against homosexuals and 70 official complaints lodged.

The report said homosexuals were being blatantly harassed in the workplace.

"Harassment takes various forms," it said, "from name calling, snide innuendo or remarks about AIDS, to death threats and the ordering of unwelcome goods.

"One complainant saw a notice in a newspaper advertising his sexuality. Another received a bill for a wooden coffin made out in his name.

"There is little doubt the upsurge in gay harassment in the workplace has been closely connected with the ill-informed AIDS scare.

"Some organisations have gone so far as to consider having antibody tests as a pre-condition of hiring."

In one complaint, two homosexual men who booked a room at a country motel were told to leave because the proprietor said he would "have to burn the bedding because of the risk of AIDS and he did not want to be seen to condone homosexuality."

In another complaint, a homosexual group had a booking for a hotel ballroom cancelled because the hotel did not want to be seen to be attracting homosexuals.

Because of the increase in the complaints the board has decided to follow some overseas practice and provide protection to AIDS sufferers under the "physical impairment" section of the Anti-Discrimination Act.

However, the board admits its jurisdiction is not clear and the final power to provide such protection will only be "finally determined by the courts".

Ms Niland said the challenge to the civil rights of homosexual men was a challenge to the civil rights of every person.

"Homosexual men have been directly discriminated against because it is perceived that they could have AIDS, or they are blamed as the cause of AIDS.

"They have been fired, and refused housing, insurance, airline tickets, dental and surgical service.

"They have been refused entry to discos and refused bar service, and they have been attacked and beaten.

"It is a problem of acute sensitivity given popular fears about the disease and will pose medical, social, legal and political difficulties."

PAGE 7: AIDS figures show some hope.

of the Victorian builders and enforcing a series of work bans imposed in support of claims for a 35-hour week.

The second round will be fought in Sydney today with the NSW Master Builders' Association using the same tactic on sites

But much will depend on whether other unions demonstrate a willingness to take over the jobs of sacked BLF members.

This is much more likely in NSW where the rival Building Workers' Industrial Union is at its strongest and where it will have

The BLF's leader, Mr Norm Gallagher, said the latest attack on the union would fail and that building sites would be kept open during the employers' efforts to bring the BLF issue to a head.

"We will calmly work our way through the situation as we've

The Federal Minister for Industrial Relations, Mr Willis, told Parliament yesterday that he had taken action to expedite deregistration proceedings against the BLF.

Reflecting confidence that the BLF's current campaign was

"For some time now these people have disqualified themselves from the great tradition of Australian trade unionism," Mr Hawke said. "It is time the Australian community is cleansed from the thuggery and evil of the BLF."

Edelsten complains of "bias and prejudice"

Dr Edelsten ... Senator Georges sho

By AMANDA BUCKLEY

CANBERRA: The Sydney medical entrepreneur Dr Geoffrey Edelsten called yesterday for a royal commission into allegations against him of medical fraud and overservicing and accused the chairman of a parliamentary committee of investigation of "declared bias and prejudice".

Appearing before the Joint Parliamentary Public Accounts Committee, Dr Edelsten said a recent report on medifraud activities, alleged by the committee's chairman, Senator George Georges, to include Dr Edelsten, was based in part on incorrect information provided by the Health Insurance Commission. Officials of the commission confirmed Dr Edelsten's contention.

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Anderson tells police board he won't push off — or shut up

By ROSS DUNN

The Minister for Police, Mr Anderson, has rejected an official finding that the NSW Police Force would be more effective if there was less ministerial interference and more power given to the Commissioner.

Mr Anderson called a news conference yesterday to comment on the annual report of the NSW Police Board, tabled in Parliament this week, which makes these claims.

The report said that the NSW Police Force would be more effective if there was less interference by the minister and more power restored to the Police Commissioner in the day-to-day running of the force.

Mr Anderson said: "It seems to me that if a minister under the Westminster system is to be accountable then surely the minister is entitled to be involved.

"I intend to continue, as I have over the last four years or so, to be involved if I am going to be accountable and indeed to continue with the program of reform."

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Gaming Squad to expand in bid to close illegal casinos

By ROSS DUNN

The size of the Police Gaming Squad is to be increased from 35 to 70 in a move to close all illegal casinos.

The additional police will cost the Government an extra $500,000 for the rest of this financial year and $1.15 million for a full financial year.

The Minister for Police, Mr Anderson, made the announcement outside Parliament yesterday shortly after he had tabled a report in the House listing 72 gambling establishments which were operating in June.

The list is contained in the second and previously unreleased volume of the Government's inquiry into gaming.

Five were in Newcastle, but there were none in Wollongong. Albury had two, Wagga Wagga one, and Tweed Heads two.

The report says the gaming houses ranged widely in quality, service, hours and types of games. Some had restaurants, and others formed part of coffee houses. Some stayed open seven days and as late as 6 am. They ranged in location from commercial to residential and industrial areas.

Examples included:

- An old three-storey building in Bayswater Road, Kings Cross, with bouncers and video-camera security, used exclusively for two-up.
- A "plush establishment" in New South Head Road, Double

was confident illegal casinos could be closed "fairly quickly".

On Tuesday, he introduced legislation which he claimed would close the loopholes that have allowed more than 150 gambling establishments to flourish legally. He said he expected the legislation to be in force within weeks.

"The Government is determined that following the passage of the new provisions in the Gaming Betting Act, all illegal and loophole gambling establishments will close," he said.

Mr Anderson said the Police Commissioner, Mr John Avery, was confident the legislation together with the expanded Gaming Squad would enable the closure of the casinos.

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Mr Anderson said the Police Commissioner, Mr John Avery, was confident the legislation together with the expanded Gaming Squad would enable the closure of the casinos.

"It can be seen from this type of expenditure that the Government is leaving no stone unturned in its attack on illegal gambling," Mr Anderson said.

Two help police over social security 'leaks'

By GRAHAM WILLIAMS

Two Social Security officers were last night helping Federal Police in Sydney with inquiries into alleged malpractice over the release of confidential information about pensioners and beneficiaries.

It is understood the police are investigating an allegation that departmental staff supplied confidential information such as addresses of specified Welfare recipients to a private agent.

A spokesman for the Federal Police in Canberra confirmed that an inquiry into an alleged malpractice in the department was under way, but said no details could be given.

But he said that the police would put more effort into Social Security fraud because it had been upgraded to become the number three priority — after drugs and organised crime — two weeks ago.

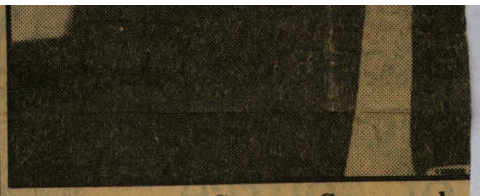
The Social Security Department is concerned at any possible leakage of its confidential information about clients — and staff who take an oath of confidentiality face a $5,000 fine or two years in jail for unauthorised disclosure.

The Minister for Social Security, Mr Howe, has already launched an inquiry into allegations of leaks.

The State Director of Social Security, Mr Tony Slattery, would not comment on the police inquiry but said that the department had a lot of confidential information on income, assets and addresses that must stay confidential.

He said that the leakage of "bulk raw data" — the supplying of large numbers of names of clients and their confidential details was virtually impossible.

But he conceded it was possible for officers to leak individual names and addresses.



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Dr Edelsten was accompanied by Mr Ian Barker, QC, and two other lawyers.

Although denying he was the Dr X referred to in the committee's September report which outlined overservicing activities on a massive scale, Dr Edelsten confirmed that his company's servicing patterns were similar to that of Dr X for the month of July last year, but he produced figures which showed his own company's record since that time had showed a marked decline in servicing of patients.

"The figures chosen by the committee from July 1984 were three times higher than those for any other single month in the year, and both the Health Insurance Commission and the Public Accounts Committee will be well aware that the July figure — taken on its own to demonstrate the case — is misleading in the extreme. When a full 12-month period is examined the average benefits and services per patient fall well within the normal

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Wentworths thieves, murderers, says

BY LINDSAY SIMPSON

Ms Kate Wentworth agreed in the Supreme Court yesterday that she had said she was descended from "a long line of thieves and murderers".

Ms Wentworth is suing her former husband, Mr Gordon Rogers, civilly for assault, alleging that he beat her, raped her and sooled the dog on her on January 29, 1977. Mr Rogers, at the same time, is suing Ms Wentworth for malicious prosecution.

Yesterday, her third day in the witness box, Ms Wentworth was being cross-examined by Mr Ric Burbidge, QC, for Mr Rogers.

Mr Burbidge: You said you are a descendant of a long line of thieves and murderers?

Ms Wentworth: That describes the Wentworth family ...

Have you said that? — Yes, I have ... take Darcy Wentworth as a prime example. He was four times in front of the Assizes, the last time for murder.

Asked whether she regarded her uncle, Mr W.C. Wentworth, the former Federal minister, as a thief, she replied: "I have regarded him as a thief for years."

Mr Burbidge: I suggested you are living in a world of sexual fantasy and violence?

Ms Wentworth: I disagree entirely.

She disagreed also that she had asserted that Mr Wentworth was "a heroin dealer", declaring she would never have said that.

"I have said his son was dealing in marijuana," Ms Wentworth said. "He is aware of that and so is his wife ... it isn't an outlandish allegation, it's a fact ..."

Earlier in the proceedings, Ms Wentworth agreed that she believed her telephone was tapped and that on one occasion in 1981 she believed it to be tapped by a company called Pacific Telephones.

She said that she had made complaints of her telephone being bugged to Mr Bob Ellicott, Mr Malcolm Fraser and Mr Andrew Peacock and an investigation was undertaken on their instruction.

She agreed the investigation revealed no evidence to support her claim.

She told the court that she had previously given evidence to the Stewart Royal Commission, the National Crime Authority and the Keating inquiry into Customs and excise, among others, and that she had given evidence at four royal commissions.

Ms Wentworth agreed that she had believed that a small spoon sent to her then 14-year-old daughter, Anna, by her former mother-in-law, Mrs Cynthia Rogers, was for the purpose of sniffing cocaine.

She agreed that she had sent a letter to Mrs Rogers after the spoon was sent, saying: "Your evilness in aiding and abetting your disgusting son in getting my older daughter out of my house ... and into the active drug culture is enough."

Asked how her mother-in-law had done this, Ms Wentworth replied: "B ment of daughter w with."

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→ ATF Stewart file. Report tabled in House of Reps on 27 Nov 1985

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NUGAN HAND ROYAL COMMISSION - MINISTERIAL STATEMENT

FOR THE INFORMATION OF HONOURABLE MEMBERS, I PRESENT THE FINAL REPORT OF THE ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP CONDUCTED BY MR JUSTICE STEWART. I SEEK LEAVE TO MAKE A STATEMENT ON THE REPORT.

2. ON 28 MARCH 1983 THE TERMS OF REFERENCE OF THE ROYAL COMMISSION OF INQUIRY INTO DRUG TRAFFICKING WERE EXTENDED TO ALLOW THE ROYAL COMMISSIONER, MR JUSTICE STEWART, TO INQUIRE INTO ACTIVITIES OF THE NUGAN HAND GROUP OF COMPANIES AND RELATED MATTERS.

INTERIM REPORTS

3. THE ROYAL COMMISSIONER HAS SINCE SUBMITTED TWO INTERIM REPORTS. INTERIM REPORT NO. 1 WAS PRESENTED TO THE GOVERNMENT ON 13 OCTOBER 1983 AND WAS TABLED IN THE COMMONWEALTH PARLIAMENT ON 6 DECEMBER 1983. THIS REPORT DEALT WITH ALLEGATIONS OF IMPROPER INTERFERENCE WITH THE INVESTIGATIONS OF THE FORMER FEDERAL NARCOTICS BUREAU, THAT IS, TERMS OF REFERENCE (E), (F) AND (G) OF THE LETTERS PATENT ISSUED BY THE GOVERNOR-GENERAL. THE COMMISSION FOUND NO EVIDENCE TO SUPPORT ALLEGATIONS OF IMPROPER INTERFERENCE WITH THE INVESTIGATIONS OF THE FEDERAL NARCOTICS BUREAU OR OF DISHONEST OR IMPROPER BEHAVIOUR ON THE PART OF ANY MEMBER OF THE BUREAU.

4. THE SECOND INTERIM REPORT WAS PRESENTED TO BOTH THE COMMONWEALTH AND NEW SOUTH WALES GOVERNMENTS ON 13 DECEMBER 1984 AND TABLED IN THE COMMONWEALTH AND NEW SOUTH WALES PARLIAMENTS ON 20 MARCH 1985. THIS REPORT CONCENTRATED

ON TERMS (B), (C) AND (D) CONTAINED IN BOTH THE COMMONWEALTH AND NEW SOUTH WALES TERMS OF REFERENCE AND CONSIDERED WHETHER THERE HAD BEEN ANY CONTRAVENTION OF NEW SOUTH WALES OR COMMONWEALTH LAWS BY THE NUGAN HAND GROUP IN ITS RELATIONS WITH LOCAL GOVERNMENT AUTHORITIES IN NEW SOUTH WALES.

5. THE ROYAL COMMISSIONER FOUND THAT NUGAN HAND LTD HAD PUBLISHED FALSE ACCOUNTS TO THE COUNCILS AND DID NOT HAVE THE REQUISITE DEALER'S LICENCE, BUT THAT APART FROM THESE MATTERS THERE WAS NO EVIDENCE TO SUPPORT ANY FURTHER ALLEGATIONS.

FINAL REPORT

6. THE REPORT I AM TABLING TODAY, WHICH IS ALSO BEING TABLED IN THE NEW SOUTH WALES PARLIAMENT, IS THE FINAL REPORT OF THE ROYAL COMMISSION DEALING WITH THE TERMS OF REFERENCE NOT COVERED BY THE EARLIER REPORTS (TERM OF REFERENCE (A) OF BOTH LETTERS PATENT), NAMELY:

> "WHETHER THE NUGAN HAND GROUP ENGAGED IN ACTIVITIES INVOLVING CONTRAVENTION OF LAWS OF THE COMMONWEALTH [OR NEW SOUTH WALES] (IN PARTICULAR, LAWS RELATING TO THE IMPORTATION, EXPORTATION OR POSSESSION OF DRUGS OR ARMAMENTS OR LAWS RELATING TO EXCHANGE CONTROL)."

IN THE REPORT THE COMMISSION MAKES A NUMBER OF POSITIVE FINDINGS, BUT INDICATES THAT ITS WORK WAS HAMPERED BY:

(A) THE CONCEALMENT OR DESTRUCTION OF A NUMBER OF RELEVANT DOCUMENTS IMMEDIATELY FOLLOWING THE DEATH OF NUGAN;

(B) THE IMPOSSIBILITY OF HEARING EVIDENCE FROM MR NUGAN; AND

(C) THE FACT THAT EVIDENCE COULD NOT BE OBTAINED FROM MR HAND.

THE ROYAL COMMISSIONER BELIEVES THAT, DESPITE THESE DIFFICULTIES, HE WAS ABLE TO PIECE THE STORY TOGETHER.

7. THE ROYAL COMMISSIONER SHOWS THAT THE NUGAN HAND GROUP OPERATED BEHIND A FACADE OF BIG SPENDING AND PUBLIC RELATIONS HYPE WHICH PROVIDED THE APPEARANCE OF A VITAL AND GROWING CONCERN. IN REALITY, HOWEVER, IT WAS A STRUCTURE OF COMPANIES RELYING HEAVILY ON FALSE BALANCE SHEETS AND ROUND ROBIN TRANSACTIONS TO ATTRACT INVESTMENT FUNDS. IT WAS BADLY MANAGED AND SUFFERED FROM THE INEPTITUDE AND LACK OF COMMERCIAL SKILLS OF ITS PRINCIPALS. DESPITE THIS IT FLOURISHED FOR SIX YEARS UNTIL THE SUICIDE OF MR NUGAN PRECIPITATED INVESTIGATION OF ITS ACTIVITIES.

DRUG TRAFFICKING ALLEGATIONS

8. HONOURABLE MEMBERS WILL RECALL THAT FROM 1977 ONWARDS ALLEGATIONS WERE MADE THAT THE NUGAN HAND GROUP WAS INVOLVED IN DRUG TRAFFICKING. THE ROYAL COMMISSIONER INQUIRED INTO THESE ALLEGATIONS AND CONCLUDED THAT THERE WAS NO EVIDENCE TO SUPPORT ASSERTIONS THAT THE NUGAN HAND GROUP WAS KNOWINGLY INVOLVED IN THE IMPORTATION, DISTRIBUTION OR FINANCING OF THE DRUG TRADE. IN ADDITION, WITH RESPECT TO THE NUGAN HAND OFFICE OPENED IN CHIANG MAI, THAILAND, THE COMMISSION FOUND THAT THERE WAS "NO EVIDENCE TO SUPPORT THE ALLEGATION THAT THE OFFICE IN CHIANG MAI WAS

ESTABLISHED TO ATTRACT DEPOSITS FROM DRUG PRODUCERS OF THE SO-CALLED 'GOLDEN TRIANGLE'".

9. THIS IS NOT TO SAY THAT MESSRS NUGAN AND HAND DID NOT PROVIDE FINANCIAL SERVICES TO PERSONS ASSOCIATED WITH THE DRUG TRADE. AT LEAST SOME OFFICERS OF THE NUGAN HAND GROUP WERE PREPARED TO ACCEPT CASH DEPOSITS THROUGH THEIR COMPANIES REGARDLESS OF THEIR SOURCE AND WITH THE ASSURANCE THAT NO QUESTIONS WOULD BE ASKED CONCERNING THEIR SOURCE. THE ROYAL COMMISSIONER HAS CONCLUDED THAT ON AT LEAST ONE OCCASION THE NUGAN HAND GROUP TRANSFERRED MONEY OVERSEAS FOR COLLECTION BY A MEMBER OF THE MR ASIA DRUG SYNDICATE, BUT THERE WAS NO EVIDENCE THAT ANY PERSON ASSOCIATED WITH THE GROUP KNEW THE MONEY WAS TO BE USED TO PURCHASE NARCOTICS.

ARMS DEALINGS

10. SEVERAL PREVIOUS INQUIRIES, INCLUDING THOSE CONDUCTED BY THE NSW CORPORATE AFFAIRS COMMISSION, THE COMMONWEALTH/NSW JOINT TASK FORCE ON DRUG TRAFFICKING AND THE COSTIGAN ROYAL COMMISSION, REFERRED TO THE NUGAN HAND GROUP'S POSSIBLE INVOLVEMENT IN ARMS DEALINGS AND RECOMMENDED FURTHER INVESTIGATIONS. THIS ROYAL COMMISSION WAS ABLE TO LOOK MORE CLOSELY INTO POSSIBLE ARMS DEALING. SEVERAL ATTEMPTS TO INITIATE ARMS DEALS ARE INSTANCED BUT ON EACH OCCASION THE ROYAL COMMISSIONER CONCLUDES THAT THE ATTEMPT CAME TO NOTHING.

CIA INVOLVEMENT

11. THE ROYAL COMMISSION INQUIRED INTO ALLEGATIONS THAT THE NUGAN HAND GROUP WAS USED BY AND/OR USED THE

CIA. THE COMMISSION FOUND THAT THESE ALLEGATIONS LACKED SUBSTANCE, BEING BASED ON THE FACT THAT THE NUGAN HAND GROUP EMPLOYED SEVERAL FORMER SENIOR US ARMY PERSONNEL SOME OF WHOM HAD HAD CIA CONNECTIONS AT SOME STAGE. THE ROYAL COMMISSIONER FOUND IT INHERENTLY IMPLAUSIBLE THAT THE CIA WOULD HAVE USED A GROUP WITH THE SHORTCOMINGS OF NUGAN HAND. HE FOUND FURTHER THAT "THERE [WAS] SIMPLY NO OBJECTIVE EVIDENCE THAT THE CIA USED OR WAS USED BY THE NUGAN HAND GROUP IN, OR IN CONNECTION WITH, ANY OF THE GROUP'S ACTIVITIES". THE US SENATE SELECT COMMITTEE ON INTELLIGENCE REACHED A SIMILAR CONCLUSION IN ITS INQUIRY. IN THE PAST SOME PUBLICITY WAS GIVEN TO THE FACT THAT FBI DOCUMENTS ON NUGAN HAND PROVIDED TO JOURNALISTS HAD PAGES BLACKED OUT. THE REPORT NOTES THAT THE ROYAL COMMISSIONER EXAMINED THESE FILES AT FBI HEADQUARTERS AND THAT THERE WAS NOTHING IN THEM WHICH WOULD LEND CREDENCE TO THE CIA ALLEGATION IN ANY OF ITS VARIOUS FORMS.

OTHER ILLEGAL ACTIVITIES

12. THE ROYAL COMMISSION DID FIND THAT THERE HAD BEEN BREACHES BY COMPANIES IN THE NUGAN HAND GROUP, ITS PRINCIPALS AND A NUMBER OF ITS OFFICERS, MAINLY OF NEW SOUTH WALES LAWS AND ALSO OF SOME COMMONWEALTH LAWS. ALL OF THE CRIMINAL BREACHES IDENTIFIED UNDER NEW SOUTH WALES LAW ARE RELATED TO THE FRAUDULENT CONDUCT OF COMPANY BUSINESS WITH RESPECT TO ONE OR MORE COMPANIES IN THE NUGAN HAND GROUP. THE COMMONWEALTH LAWS BREACHED WERE TAX LAWS AND THE THEN EXISTING FOREIGN EXCHANGE REGULATIONS.

13. THE COMMISSION MADE ITS ASSESSMENT OF THE INVOLVEMENT IN CRIMINAL BEHAVIOUR OF PARTICULAR INDIVIDUALS ON THE

BASIS OF THE CIVIL STANDARD OF PROOF AND THEREFORE MADE NO RECOMMENDATIONS WITH RESPECT TO PROSECUTIONS. HOWEVER, THE CONCLUSIONS AS TO CRIMINALITY NEED TO BE FOLLOWED UP AND THE COMMISSION HAS PASSED INFORMATION, WHICH MAY LEAD TO PROSECUTIONS, TO THE RELEVANT LAW ENFORCEMENT BODIES.

DELETIONS

14. THE GOVERNMENT IS AWARE THAT A SIGNIFICANT AMOUNT OF THE INFORMATION CONTAINED IN THIS REPORT HAS BEEN PUBLISHED PREVIOUSLY. THE ROYAL COMMISSIONER HAS SUGGESTED FOR DELETION SOME PARTS OF THE REPORT CONTAINING HIS ASSESSMENT IN RELATION TO PERSONS WHO APPEAR TO HAVE COMMITTED CRIMINAL OFFENCES AND THIS HAS BEEN AGREED. ON THE ADVICE OF THE DIRECTOR OF PUBLIC PROSECUTIONS AND THE ATTORNEY-GENERAL'S DEPARTMENT, AND FOLLOWING CONSULTATION WITH THE NEW SOUTH WALES GOVERNMENT, THE GOVERNMENT HAS DECIDED TO DELETE SOME FURTHER SECTIONS OF THE PUBLIC VERSION OF THE REPORT THAT MIGHT OTHERWISE PREJUDICE PROSECUTIONS OR FAIR TRIAL. MR JUSTICE STEWART HAS BEEN INFORMED OF THE GOVERNMENT'S DECISION. A FULL COPY OF THE REPORT HAS BEEN PASSED TO THE LEADER OF THE OPPOSITION FOR HIS INFORMATION.

RECOMMENDATIONS

15. THE ROYAL COMMISSION HAS MADE A NUMBER OF POLICY RECOMMENDATIONS WHICH ARE CURRENTLY UNDER ACTIVE CONSIDERATION BY THE GOVERNMENT:

(1) THE COMMISSION HAS RECOMMENDED AMENDMENTS TO THE ROYAL COMMISSIONS ACT TO PROVIDE FOR THE APPLICATION OF THE RULES OF NATURAL JUSTICE TO THE PROCEEDINGS OF ROYAL COMMISSIONS AND TO PROVIDE FOR ROYAL COMMISSION

POWERS TO REMAIN IN FORCE FOLLOWING THE DELIVERY OF REPORTS TO ENABLE THE TRANSFER, TO RELEVANT AUTHORITIES, OF MATERIAL GATHERED BY ROYAL COMMISSIONS. A REVIEW OF THE COMMONWEALTH ROYAL COMMISSIONS ACT HAS BEEN UNDER WAY FOR SOME TIME AND BOTH OF THESE ISSUES WILL BE CONSIDERED BEFORE AMENDMENTS ARE FINALISED. IT IS EXPECTED THAT THIS WILL BE COMPLETED SHORTLY.

(2) THE ROYAL COMMISSION HAS ALSO RECOMMENDED THAT ACCESS TO CAYMAN ISLAND BANKING DOCUMENTATION BE ARRANGED THROUGH AN AGREEMENT WITH THE UNITED KINGDOM AND THAT MODERN JUDICIAL ASSISTANCE TREATIES BE ESTABLISHED BETWEEN AUSTRALIA AND OTHER APPROPRIATE COUNTRIES. THE COMMONWEALTH SECRETARIAT IS PREPARING A PROPOSED SCHEME RELATING TO MUTUAL ASSISTANCE IN CRIMINAL MATTERS BETWEEN MEMBER NATIONS OF THE COMMONWEALTH. AUSTRALIA HAS SPECIFICALLY RAISED THE QUESTION OF ACCESS TO CAYMAN ISLAND DOCUMENTATION IN THIS REGARD. IT IS HOPED THAT THE SCHEME WILL BE SETTLED AT THE COMMONWEALTH LAW MINISTERS' MEETING IN JULY 1986. THE GOVERNMENT HAS ALREADY COMMENCED NEGOTIATING BILATERAL MUTUAL ASSISTANCE TREATIES WITH NON-COMMONWEALTH COUNTRIES.

(3) THE ATTORNEY-GENERAL IS CONSIDERING THE ROYAL COMMISSIONER'S RECOMMENDATIONS FOR LEGISLATION TO PROVIDE FOR THE SPECIFICATION OF THE DUTIES OF AUDITORS AND FOR THE REVIEW, BY THE NATIONAL COMPANIES AND SECURITIES COMMISSION, OF THE COMPANIES CODE. STATE GOVERNMENTS HAVE IMPORTANT RESPONSIBILITIES IN THIS AREA AND IT IS PROPOSED TO HOLD DISCUSSIONS WITH THEM WITH A VIEW TO FORMULATING AN APPROPRIATE RESPONSE.

(4) FINALLY, THE ROYAL COMMISSIONER RECOMMENDED THAT A COMMITTEE BE SET UP TO LIAISE WITH APPROPRIATE PROFESSIONAL BODIES, SUCH AS THE AUSTRALIAN BANKERS ASSOCIATION, WITH A VIEW TO ESTABLISHING CRITERIA TO BE FOLLOWED BY BANKS IN RESPECT OF THE ISSUING OF OPINIONS CONCERNING THEIR CLIENTS' FINANCIAL STANDING AND WORTH. A WORKING GROUP HAS BEEN ESTABLISHED FOR THIS PURPOSE.

CONCLUSION

16. IN SUMMARY THEN THE ROYAL COMMISSIONER FOUND THAT THE NUGAN HAND GROUP HAD OPERATED FOR SIX YEARS WITH TOTAL DISREGARD FOR COMPANY LAW. ALTHOUGH IT HAD PROSPERED FOR A TIME ITS COLLAPSE WAS INEVITABLE BECAUSE OF THE INHERENT INSTABILITY OF FINANCIAL OPERATIONS BASED ON ROUND ROBIN TRANSACTIONS AND THE LACK OF MERCHANT BANKING EXPERTISE OF ITS PRINCIPALS. THE ROYAL COMMISSIONER'S FINAL REPORT, TOGETHER WITH HIS TWO INTERIM REPORTS, CONCLUDES THAT THE WILDER ALLEGATIONS MADE AFTER THE GROUP'S COLLAPSE AND CONCERNING ITS ACTIVITIES COULD NOT BE SUBSTANTIATED. THE GROUP'S MISDEEDS WERE EXAGGERATED, IN PARTICULAR WITH REGARD TO THE ALLEGATIONS RELATING TO DRUG TRAFFICKING AND ARMS DEALING. FURTHERMORE THE COMMISSION FOUND THAT THERE WAS NO CONNECTION BETWEEN THE GROUP AND THE CIA. I AM CONFIDENT THAT PUBLIC REVELATION OF THIS SORRY TALE, TOGETHER WITH THE LEGISLATIVE AND OTHER MEASURES THE GOVERNMENT HAS TAKEN AGAINST WHITE-COLLAR CRIME, AND THE INCREASED VIGILANCE THAT HAS RESULTED, WILL GREATLY REDUCE THE LIKELIHOOD OF ACTIVITIES OF THIS KIND. MR JUSTICE STEWART AND HIS STAFF ARE TO BE CONGRATULATED FOR THE VALUABLE REPORTS THEY HAVE PRODUCED UNDER THEIR NUGAN HAND TERMS OF REFERENCE.

Memo to
OPP

122 186

Director of Public Prosecutions
Hinkler Building
Kings Avenue
BARTON ACT 2600

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Attached is a copy of a letter and associated correspondence from the Reserve Bank of Australia advising that the abovementioned Royal Commission has provided the Reserve Bank with details of transactions which may have involved breaches of the Banking (Foreign Exchange) Regulations. The schedules of transactions prepared by the Commission, which are referred to in the Commission's letter to the Reserve Bank, have not been provided to this Department.

Provided on 18/12/85

Consistent with the arrangements for prosecuting offences under the Banking (Foreign Exchange) Regulations established with your Office earlier this year, I am forwarding the attached information to you for any action you may consider necessary. Should you require any further information on this matter, including details of the transactions referred to in the Commission's letter to the Reserve Bank, I suggest you contact the Reserve Bank and the Commission.

R.M. Beetham
First Assistant Secretary
28 Novembr 1985

121 185

65 MARTIN PLACE
BOX 3947 GPO SYDNEY 2001
TELEPHONE 234 9333

IN REPLY PLEASE QUOTE SD

RESERVE BANK OF AUSTRALIA

25 October 1985

Mr B. 29/10
to see
Mr M Gaudron
Draft memo to
refer matter to DPP in view of this
representation under B(FE) Act.
J.J. 29/10

29/10

Attention: Mr J. Jepsen

The Secretary
The Treasury
Parkes Place
CANBERRA ACT 2600

Dear Sir,

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

We attach a copy of the Royal Commission's letter of 28 June 1985 which has been provided to us on the basis that its contents may provide evidence of offences under the Banking (Foreign Exchange) Regulations.

As you are aware, the terms of reference of the Royal Commission of Inquiry into Drug Trafficking were extended with Letters Patent issued on 28 March 1983 to make inquiry into and report whether the Nugan Hand Group engaged in activities contravening Commonwealth laws, including those relating to exchange control. At the request of the Commission, the Bank had earlier:

- responded to the Commission's request for details of any prior Reserve Bank examination of the Nugan Hand Group;
- supplied substantial exchange control documentation to the Commission, in response to a summons dated 23 August 1983;
- nominated an officer to assist the Commission with its enquiries into operational and policy aspects of exchange control and to participate in formal conferences with the Commission's staff.

Our examination of files relating to Nugan Hand and the names of persons/corporations appearing in the schedules attached to the Commission's latest letter discloses:

. During the period (1977-1980) covered by the schedules, the Bank gave Nugan Hand Ltd a large number of authorities to borrow funds from overseas. The names of many of the overseas lenders to Nugan Hand Ltd appear several times in the schedules. However, we have not been able to relate any inflows detailed in the schedules to any specific borrowing authorities given by the Bank. During the same period the Bank also gave Nugan Hand Ltd a large number of authorities to repay borrowings. The schedules disclose a large number of principal and interest payments by Nugan Hand Bank, Cayman Islands, on account of Nugan Hand Ltd; in only a small number of cases is it possible to relate these payments to authorities given by the Bank to the local company.

. The names J.L. Aston and Kevin Murray appear together on several occasions in connection with the purchase of a home unit in Hawaii. In November 1981 the Bank wrote to both persons drawing their attention to several unauthorised transactions associated with its purchase. On 15 January 1983 we wrote to Treasury detailing possible breaches by them of the Banking (Foreign Exchange) Regulations.

Pls let me see file containing this letter

. We have files on many other names mentioned in the schedules. Except in the case of Nugan Hand Ltd and Messrs Aston and Murray, our files disclose no information apparently relating to the transactions described in the schedules.

On the face of it, the transactions reported by the Commission involve breaches of the Banking (Foreign Exchange) Regulations (as then in effect), specifically Regulations 8(3) (a) (i) and (ii) and Regulation 41.

At the request of the Federal Police, who are conducting enquiries on behalf of the Nugan Hand Royal Commission into the "Yorkville Contra account" of Nugan Hand, the Bank recently gave access to police officers to its files on persons named in the schedules.

We are forwarding this material to you for any action you consider necessary.

Yours faithfully,

M.R. Hill
Secretary

Encl.

Mr Naum 119 183

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Mr Porter for discussion

Commissioner: THE HON. MR. JUSTICE D. G. STEWART
Secretary: MR. G. R. LINNANE

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

28 June 1985

The Secretary
Reserve Bank of Australia
Level 10, 65 Martin Place
SYDNEY N.S.W. 2000

Attention: Chief Manager
International Department

Dear Sir,

Re: Information furnished pursuant to section 6P of the Royal Commissions Act 1902

The following material (CD11545) is provided to you by the Commission pursuant to section 6P of the Royal Commissions Act 1902 on the basis that its contents may provide evidence of offences within your law enforcement area.

The Commission has prepared three schedules of transactions, which provide details of a facility which the Nugan Hand Group termed 'Yorkville Contra' whereby a client could deposit money with a particular Nugan Hand company in one country on the understanding that the client had the right to receive an equivalent amount from a Nugan Hand company in another country. In each case one of the countries concerned would be Australia and there would be no transmission of money across national borders. The word 'Yorkville' was a reference to the fact that in the early days of the Group the clients using this facility were treated as clients of Yorkville Nominees Pty Ltd. Each of the schedules is based on a different accounting source and should, with one possible exception, represent different transactions.

Schedule D

This schedule contains a list of all Yorkville Contras which were recorded in an account entitled 'Yorkville Contra' in the books of the Nugan Hand Bank. The Nugan Hand Bank, of course, was incorporated in the Cayman Islands.

Schedule E

This schedule contains a list of all Yorkville Contras included in the account entitled 'Nugan Hand Ltd' in the books of the Nugan Hand Bank. The majority of these transactions were of a particular type, that is, deposits made from overseas to Nugan Hand Ltd in Sydney, the liability for which was assumed by the Nugan Hand Bank which in due course repaid the deposit overseas. Before July 1977 these were included in the account styled 'Yorkville Contra'. Thereafter they were included in the account entitled 'Nugan Hand Ltd'. These transactions have been included as Yorkville Contras because they satisfy the basic definition

of a Yorkville Contra although it could be argued that in the case of some of these transactions repayment by a different company in a different country was not so much a facility for the client's purposes but rather an arrangement which was convenient to the Nugan Hand Group.

Schedule F

This schedule refers to Yorkville Contra transactions to or from the Nugan Hand Bank which were not included in the books and records styled 'Yorkville Contra' and 'Nugan Hand Ltd'. It also includes transactions to or from Nugan Hand Inc. Panama (before the formation of the Nugan Hand Bank) as well as those located amongst the records of Nugan Hand (Hong Kong) Ltd and Nugan Hand Singapore (Pte) Ltd. Many of the transactions relate to deposits received in Australia for which International Certificates of Deposit were issued by the Nugan Hand Bank. It should be noted that a journal entry of 30 June 1979 in the books of the Nugan Hand Bank charged the account entitled 'Yorkville Contra' for adjustments made to deposits accepted from clients in the amount of US$2.3 million.

In compiling the schedules it was noted that the Nugan Hand Bank books and records showed inconsistencies in the exchange rates adopted from time to time. When a credit was raised in the Nugan Hand Bank's books, in respect of a Yorkville Contra transaction, the Nugan Hand Bank applied the middle rate on that day. When the Nugan Hand Bank purchased or sent a draft or telegraphic transfer overseas the buying rate on that day was applied. When the books and records were written up, the rate applicable at the end of the month, at the end of several months, or at the end of the financial year was used to convert Australian, Hong Kong and Singapore dollars to United States dollars which was the currency used by the Nugan Hand Bank for recording purposes. Accordingly, the Nugan Hand Bank records sometimes reflected different United States dollar amounts for the same transaction. Where this occurred and where the situation was otherwise unclear, the Commission has taken the rate ruling on the day of the transaction.

Schedule G

In addition to these three Schedules which contained only the essential facts concerning each transaction, namely, date, amount, client etc, a further Schedule has been prepared setting out the detailed circumstances of each of these transactions to enable their complexity and diversity to be appreciated.

Please sign and return the attached copy of this letter and the schedules to acknowledge receipt of these documents.

Yours faithfully,

for A. Norman-Green
Acting Secretary

In affirmative absence of other people at time of receiving letter, signing was made by Mr T. Thomas at request for a signature by Terrence Downing Government.

1/7/85

F83/631

83/241

Mrs Perry
AFF Stewart / NH
file Oct 19/85 117

Government's Response to Final Report of Stewart Royal Commission of Inquiry into the Activities of the Nugan Hand Group.

Sub No 3366 of 23 Oct 85
Corrigendum

8. Recommendation :-

(a) approve the principle that deletions be made which could prejudice current prosecutions or fair trial.
(b) note agreement still being sought with ASIO on the deletions.
(c) agree report be tabled.
* (d) approve statement along lines of Attach A.
(e) note that a full copy ~~to~~ of report ~~has been~~ will be passed to Leader of the Opposition.

* Report's Recommendations re FIB.
(2) Cwlth Secretariat is preparing a proposed scheme re mutual assistance between Cwlth members & their access to Cayman Island banking does be arranged through UK. Other treaties etc is proposed

VIP (4) Finally, the Royal Commissioner recommended that a committee be set up to liaise with professional bodies with a view to establishing criteria for the issuing of bankers' opinions. A Working Group has been established for this purpose

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Mr Callaghan 31/10

NOTE FOR FILE

STEWART REPORT: PRIVATE BANK EXECUTIVE

Further to my note for file of 22 October 1985 Mr McInnes (PM&C) called on 23 October 1985 to say that before any reference to matters raised in the Stewart Report pertaining to further investigations/possible prosecutions (ie Part 10 of the Report) were made to non-official organisations or persons the Governor should seek to speak to the DPP, Mr Temby, to ascertain whether any action was being taken by any law enforcement authorities regarding these matters. In particular Mr Temby should be asked whether the RBA's proposed course of action would cut across any current investigations or prejudice possible further court proceedings. Mr McInnes speculated that Mr Temby could refer the Governor to the NSW authorities in which case the same questions could be asked of them. He also suggested that the Governor might speak to Justice Stewart if the earlier enquiries were inconclusive.

Copies to:

The Secretary
Mr Moore
Mr Waller
Mr Jepsen
Mr Callaghan

2. Following discussions with the Governor I called Mr Temby. After outlining my responsibilities I advised him that I was calling at the suggestion of Mr McInnes. I indicated that the matter related to the banker mentioned in the Stewart Report, specifically pages 1081-1084 in Part 10. It was against the background of the RBA's general responsibilities for the protection of bank depositors and the Treasurer's general responsibilities for banking. The concerns of the RBA, Treasury and, I believe, the Treasurer stemmed from those responsibilities and the feeling that for the fulfillment of those responsibilities (particularly given the senior position currently held by the person involved) the overseas bank (at the appropriate level) should be aware of the matter discussed at some length in Part 10 of the Report. I added that the other matter raised in Part 10 and discussed at some length in other parts of the Report - namely certain sham transactions - was already known to the overseas bank through medium of transcripts of evidence given to the Commission by the individual and passed over to the overseas bank by the individual following a discussion with the Governor. I said that my purpose in calling was to seek his advice on whether action by the Governor (in terms of his responsibilities and duties) to inform the overseas bank (at the most senior level) of the other matter concerning the individual raised in Part 10 would cut across any current investigations by law enforcement authorities or prejudice possible future court proceedings. Mr Temby said he would have the matter considered and he would get someone to advise.

7293f

3. John Thornton, Principal Legal Officer in the DPP, called me on 28 October 1985 in response to my enquiries of Mr Temby to say that the Commonwealth authorities were not contemplating taking any action with regard to the senior bank executive. He was not aware of any current or proposed action by the State authorities. He agreed that the DPP would have no problems with the Governor (against the background of his duties and responsibilities) referring to the matters along the lines outlined to Mr Temby. He said that the DPP could not advise on matters relating to the Governor's position from the viewpoint of defamation aspects.

4. I passed this information to the Governor on 28 October 1985.

Richard M. Beetham

R.M. Beetham
First Assistant Secretary
28 October 1985

STRICTLY CONFIDENTIAL

114

SECRETARY'S OFFICE
22 OCT 1981 25/10
To Mr Bottom
SEE BY FRASER
Initial BHF Date 22/10

NOTE FOR FILE

STEWART REPORT: PRIVATE BANK EXECUTIVE

The Governor called me yesterday afternoon to say that the Chairman of the local Advisory Board of the relevant overseas bank was calling on him later in the day to check whether his copy of the transcript of the evidence given to the Royal Commission by the bank executive was consistent with information available to the RBA. The Governor said that while the transcript held by the private bank was likely to refer to the matter of building up accounting records by paper transactions it was unlikely to refer to what was probably the more serious allegation of false evidence to the Commission and the handling of a particular transaction effected by cheque. The Governor sought my advice on how he might deal with this matter.

2. After examination of the relevant sections of the Stewart Report, I called the Governor and advised him along the following lines:

Copies ONLY to:

The Secretary
Mr Moore
Mr Jepsen
Mr Callaghan

- Our reading of the Report suggested that any transcripts of evidence were unlikely to point up the possibly more serious allegations.

- It was important from the viewpoint of the RBA's and the Treasurer's responsibilities for the protection of the bank depositors that the private bank should be aware of these allegations.

- Unless specific reference was made to Part 10 of the Report, which contained these allegations, it would not seem possible to transmit the necessary information to the private bank to allow it to fully comprehend and act; it was possible that the executive himself was unaware of the allegations.

- Unless the Governor felt that his discussions with the Treasurer allowed him to be so precise in his discussion with the private bank I would be concerned, inter alia, by the laws of defamation, if the Governor were, at this stage, to quote the Report to the Bank.

- If, as likely, the matter did not arise in the discussions later in the day, an alternative would be for the Governor to talk directly to the private bank executive and refer to the allegations. If these were denied, which also seemed likely, and the individual therefore was unwilling to refer to the matter with his employer, then there would be a need to consider other approaches.

The Governor suggested that he would following this approach.

STRICTLY CONFIDENTIAL

3. This morning I spoke to Mr McInnes in PM&C and informed him of these developments. I also sought his advice on the possibility of the Governor informing the private bank, in confidence, of the allegations contained in Part 10 of the Repot. Mc Innes said that since the Report was a joint Commonwealth/NSW exercise he would need to check with the relevant joint committee responsible for the Report whether they would have any problems with such an approach. His own view was that this approach would be appropriate.

Richard M. Beetham

R.M. Beetham
First Assistant Secretary
22 October 1985

12

NOTE FOR FILE

STEWART REPORT: PRIVATE BANK EXECUTIVE

The Deputy Governor called this morning to say that the Governor had been contacted by the chief executive of the overseas bank currently employing the person involved in the above. The Governor had also been contacted this morning by the Chairman of the Australian Advisory Board. The overseas bank was now informed of the situation. The local Chairman had read transcipts of relevant evidence and this had led to the advice to Head Office. It had also been suggested to the person involved that he seek legal advice.

2. The overseas bank representatives had thanked the Governor for the discretion shown in handling this matter. The Governor had said he would keep the overseas bank informed of any significant developments.

3. I agreed with the Deputy Governor that nothing moe needed to be done at this stage.

Richard M. Beetham

R.M. Beetham
First Assistant Secretary
17 October 1985

Copies ONLY to:

The Secretary
Mr Moore
Mr Jepsen
Mr Callaghan

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NOTE FOR FILE

STEWART REPORT: SENIOR PRIVATE BANK OFFICER

now on 4/11 Subject to NSW clearance and Further ~~to proceed~~ between AG's and SMOS

I spoke today to the Deputy Governor to advise him of our understanding that a Cabinet Submission relating to the Stewart Report could be considered by Cabinet on 28 October 1985 and that this was likely to recommend tabling/publication of the Report excluding Part 10. This meant the bulk of the Report could become public in November.

18 or 19/11 at earliest

2. I asked him about the discussions which the Governor had had some weeks ago with the Treasurer concerning the senior private bank officer referred to in the Report. The Deputy Governor said that as a result of that discussion the Bank had spoken with the person concerned. The individual was aware of the issues involved and had indicated that his former employer was aware of the matter and he would now inform his current employer. The Deputy felt that this was sufficient action.

3. I asked the Deputy whether there had subsequently been any indication that the current employer had been informed. He said that he understood my point and implied he would cover it.

Richard M. Beetham

R.M. Beetham
Acting Deputy Secretary
10 October 1985

Copies ONLY to:

Acting Secretary 11/10
Mr Jepsen
Mr Callaghan

L. Jebsen

Mr Beetham 14/10

Thanks

110

(2) Mr Fisk
Thanks ✓✓
ATF
83/631 MG 9/1

Mr Edwards.
Mr Callaghan (1)
fi 13/1 NUGGAN HAND

AFP Sydney advised me yesterday that they & the ATO had also received the gist of the Commission's memo below & apparently all the attachments - & the AFP have concluded that no E.C. offences can be proven & are now looking at investigating the taxation aspects - HQ of AFP in Canberra has however asked AFP Sydney to "hold fire" for the time being. Accordingly, I feel we need take no action re these papers.

One matter of possible interest is references to Wardley Ltd in schedules (see tabs). However, it would appear that Wardley (which has an Aust subsid holding a FX licence & is owned by the Hong Kong & Shanghai Banking Corp - one of our 16 new foreign banks) was a depositor of funds with NH Group in Hong Kong & may not have been aware of the Group's apparent exchange control offences in dealing with the deposit(s) & interest payments thereon. (I can't recall whether there are references to Wardley in the Commission's Report - not listed in index of names) ATF 8/1

* We sent a copy of the RC's letter to the Banks, memo & the attachments to the DPP in Nov 85. Do you feel we need now send to DPP - we did suggest to DPP that they might contact RBA if they wanted any further info on the matter. (We did not have them then) No

(On balance, I feel we need not send schedules to DPP.)

ATF
8/1.

Π' Fuk:

Wardley

• Wardley Australia Limited has held an FXD authority since June 1984.

• the 1984 Annual Report of Wardley Australia indicates that it is beneficially owned by the Hong Kong & Shanghai Banking Corporation through certain other companies – see page 5 of report.

• page 5 of the Annual Report indicates that Wardley Limited (80 percent shareholder in Wardley Australia Limited) is a merchant bank based in Hong Kong

• the Hong Kong & Shanghai Banking Corporation is shortly to be authorised to carry on banking business in Australia in association with the Victorian Economic Development Corporation. The establishment of the new bank will involve a re-arrangement of Wardley's Australian interests.

Ralph Edwards.

8.1.85.

12/12/85. 108

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

Nugan Hand Enquiry.

Commissioner: The Hon. Mr. Justice D. G. Stewart
Secretary: Mr. G. R. Linnane

G.P.O. Box 2528
Sydney N.S.W. 2001
Australia

Telephone: (02) 358 2488

Reserve Bank of Australia
Recd. 22 JUL 1985
Secretary's Dept.
Sydney

28 June 1985

The Secretary
Reserve Bank of Australia
Level 10, 65 Martin Place
SYDNEY N.S.W. 2000

Attention: Chief Manager
International Department

Dear Sir,

Re: Information furnished pursuant to section 6P of the Royal Commissions Act 1902

The following material (CD11545) is provided to you by the Commission pursuant to section 6P of the Royal Commissions Act 1902 on the basis that its contents may provide evidence of offences within your law enforcement area.

The Commission has prepared three schedules of transactions, which provide details of a facility which the Nugan Hand Group termed 'Yorkville Contra' whereby a client could deposit money with a particular Nugan Hand company in one country on the understanding that the client had the right to receive an equivalent amount from a Nugan Hand company in another country. In each case one of the countries concerned would be Australia and there would be no transmission of money across national borders. The word 'Yorkville' was a reference to the fact that in the early days of the Group the clients using this facility were treated as clients of Yorkville Nominees Pty Ltd. Each of the schedules is based on a different accounting source and should, with one possible exception, represent different transactions.

Schedules not attached to these copies. (Field - IND)

Schedule D

This schedule contains a list of all Yorkville Contras which were recorded in an account entitled 'Yorkville Contra' in the books of the Nugan Hand Bank. The Nugan Hand Bank, of course, was incorporated in the Cayman Islands.

Schedule E

This schedule contains a list of all Yorkville Contras included in the account entitled 'Nugan Hand Ltd' in the books of the Nugan Hand Bank. The majority of these transactions were of a particular type, that is, deposits made from overseas to Nugan Hand Ltd in Sydney, the liability for which was assumed by the Nugan Hand Bank which in due course repaid the deposit overseas. Before July 1977 these were included in the account styled 'Yorkville Contra'. Thereafter they were included in the account entitled 'Nugan Hand Ltd'. These transactions have been included as Yorkville Contras because they satisfy the basic definition

Mr. Callaghan
Mr. Edwards.

Det. Sgt Woods (02-690 8666) informed me that identical copies were sent to RBA, AFP & ATO. Woods commented that evidence not available to lay any B(E)R charges but the fraud investigation established

of a Yorkville Contra although it could be argued that in the case of some of these transactions repayment by a different company in a different country was not so much a facility for the client's purposes but rather an arrangement which was convenient to the Nugan Hand Group.

Schedule F

This schedule refers to Yorkville Contra transactions to or from the Nugan Hand Bank which were not included in the books and records styled 'Yorkville Contra' and 'Nugan Hand Ltd'. It also includes transactions to or from Nugan Hand Inc. Panama (before the formation of the Nugan Hand Bank) as well as those located amongst the records of Nugan Hand (Hong Kong) Ltd and Nugan Hand Singapore (Pte) Ltd. Many of the transactions relate to deposits received in Australia for which International Certificates of Deposit were issued by the Nugan Hand Bank. It should be noted that a journal entry of 30 June 1979 in the books of the Nugan Hand Bank charged the account entitled 'Yorkville Contra' for adjustments made to deposits accepted from clients in the amount of US$2.3 million.

In compiling the schedules it was noted that the Nugan Hand Bank books and records showed inconsistencies in the exchange rates adopted from time to time. When a credit was raised in the Nugan Hand Bank's books, in respect of a Yorkville Contra transaction, the Nugan Hand Bank applied the middle rate on that day. When the Nugan Hand Bank purchased or sent a draft or telegraphic transfer overseas the buying rate on that day was applied. When the books and records were written up, the rate applicable at the end of the month, at the end of several months, or at the end of the financial year was used to convert Australian, Hong Kong and Singapore dollars to United States dollars which was the currency used by the Nugan Hand Bank for recording purposes. Accordingly, the Nugan Hand Bank records sometimes reflected different United States dollar amounts for the same transaction. Where this occurred and where the situation was otherwise unclear, the Commission has taken the rate ruling on the day of the transaction.

Schedule G

In addition to these three Schedules which contained only the essential facts concerning each transaction, namely, date, amount, client etc, a further Schedule has been prepared setting out the detailed circumstances of each of these transactions to enable their complexity and diversity to be appreciated.

done?

Please sign and return the attached copy of this letter and the schedules to acknowledge receipt of these documents.

Yours faithfully,

for A. Norman-Green
Acting Secretary

In apparent absence of other purpose at time of receiving [illegible], signing was made by [illegible] at request for a [illegible] by return receiving documents.

[illegible] 1/7/85

IN-CONFIDENCE

ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

A.28.6.85
106

FILE No.
/11545

ARCHIVAL ACTION

FORMER PAPERS	LATER PAPERS

TLE YORKVILLE CONTRA SCHEDULES

er Summarising File

puterised and Date

Contents Acquired

ce (How Acquired)

2	3	4	5	1	2	3	4	5
Referred to	Date	Clea-red	Resubmit	Folio No.	Referred to	Date	Clea-red	Resubmit

SCHEDULE D

YORKVILLE CONTRA TRANSACTIONS

Transactions located in 'Yorkville Contra' account in NHB books
(refer to end of schedule for explanation of abbreviations used)

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
1.12.76	(11 287.83)	(11 138.00)	Brian Gordon Eyre	Original deposit by Eyre with NHB extinguished because Eyre received the equivalent from Yorkville Nominees P/L as part of a back to back loan in Australia	8371/29 5986 4588/24 6690/35
12. 1.77	10 822.51	9 954.00	Peggy Boyd Pracey	Loan to NHL with RBA approval by Pracey partly repaid by NHB (HK$50 000) not reimbursed by NHL until December 1977	8363/34-5
12. 1.77	(2 164.50)	(1 990.00)	M.J. Holbeche	Loan by F.J. Nugan in Sydney repaid by Holbeche to NHB (HK$10 000)	8363/60-1
7. 4.77	(56 500.00)	(50 000.00)	Chi Wei & Sup Pin Chen	deposit to NHB by Chen in Singapore - payment by Yorkville Nominees to Chen in Australia	6690/35 8234/212 8371/29 2046/144 7972/22 6155/60,61 6690/35 6904/134
16. 4.77	119 047.62	107 453.00	Margarco (Container-Care)	loan to NHL with RBA approval repaid by NHB (HK$550 000) and not reimbursed by NHL to NHB	8363/42-3

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
19. 4.77	13 481.71	12 170.00	Peggy Boyd Pracey	loan to NHL with RBA approval repaid by NHB (HK$62 280.90) and not reimbursed until December 1977	8363/42-3 6904/130
2. 5.77	2 189.26	2 000.00	Paul Kirkham	T/T of £1 246.34 (HK$10 114.40) by NHB to England for client who paid equivalent to Nugan Hand Group in Sydney	8363/44-5 7852/191-2
3. 5.77	1 098.45	993.00	Patricia J. Hayward	T/T of £623.17 (HK$5 074.85) by NHB to England for client who paid equivalent in Australia to Nugan Hand Group	8363/44-5 7852/189 -190
4. 5.77	(1 130.00)	(1 000.00)	Dr Neil Scrimgeour	Reduction in Scrimgeour's deposit with NHB due to cash payment made by Nugan Hand Group in Australia	8371/38 8234/157
4. 5.77	22 414.29	20 273.00	Michael John Moran	T/T of £12 800 (HK$103 554) by NHB to England for client who paid equivalent to Nugan Hand Group in Sydney	8363/44-5 7852/184-7
17. 5.77	110 250.00	99 702.00	Shue Shau Min	loan to NHL with RBA approval repaid by NHB and not reimbursed by NHL	8363/4 8363/48-9 7609/45
17. 5.77	5 056.42	4 573.00	Unidentified	(HK$23 356) paid by NHB through Deak & Co	8363/48-9
6. 6.77	5 606.06	5 000.00	Katz	payment of (HK$25 900)to Gemsland in Hong Kong by NHB - Nugan Hand Group obtained money from Katz in Sydney	8363/48-9 7792/21-3 6904/105
28. 7.77	5 483.75	4 875.00	Karos Trust	T/T to Zurich (possibly for Suranyi) by NHB - money obtained by Nugan Hand Group in Sydney (2.5% fees deducted)	8351/4 8371/6 7762/14-19 7184/198 6598/22

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
30. 7.77	28 416.29	25 000.00	Ting Kit Yueng	payment by NHB - money obtained by Nugan Hand Group in Sydney	4642/4-6
9 .8.77	5 606.65	5 000.00	G. Bakker	T/T to Holland by NHB (HK$25 902.73) - money obtained by Nugan Hand Group in Sydney	7762/9-13 4642/8-9 6904/74
10. 9.77 12. 9.77	10 940.00 2 079.00	12 000.00	Robert Cordukes	T/T to Spain by NHB - Nugan Hand Group obtained the money in Australia - admitted by Cordukes	8351/9-10 6585/7-12 6904/48 11438
12. 9.77	27 527.00	24 890.00	Lindsay.J. Tooley	NHB raised an International Certificate of Deposit for - money collected by Nugan Hand Group in Australia	8371/34-5 4628/5 6615/26,39 40
15. 9.77	5 517.00	4 988.00	Marta Suranyi	NHB issued an International Certificate of Deposit for money collected by the Nugan Hand Group in Australia	8371/34-5 4628/5 8234/239 6904/46 4644/14
29. 9.77	(6 630.00)	(5 980.00)	Torgeir Berge	Matured deposit with NHB part paid by T/T to Switzerland with the balance paid by Nugan Hand Group in Australia. Berge denies any involvement with this transaction.	8371/29 7852/160 4588/24 6904/39 6690/35 11501
5.10.77	60 000.00	55 000.00	Unidentified	T/T to Zurich by NHB - cash collected by Pulger-Frame in Australia and placed in safe in Sydney at NHL premises	8416/4-7 7704/104

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
7.10.77	14 938.00	14 000.00	Unidentified	T/T to Israel Discount Bank by NHB - money collected in Austraila by Nugan Hand Group	7852/156-9 8371/29
18.10.77	2 900.43	2 575.00	Raymond Lord	payment by NHB to Tropicana Ltd (HK$13 400)- Nugan Hand Group reimbursed in Australia Lord admitted this transaction occurred	4642/19, 21-2 6615/22 7797/185 11429
19.10.77	(19 047.62)	16 600.00	Unidentified (possibly Murray Stewart Riley)	HK$88 000 cash deposited to NHB under code name 'Yogi Bear' - Nugan Hand Group paid out cash from the safe in Australia. Riley denied any knowledge of this transaction and this code 'Yogi Bear'	4642/67 7797/122 7733/73 11442
24.10.77	7 892.67	7 097.72	Grace Wee	NHB increased deposits from Wee by amount received by Yorkville Nominees Pty Ltd in Australia	8419/75 8371/41 8419/75 6570/31 5993/42,48
24.10.77	(4 239.10)	(3 768.00)	Don Cirillo	Commissions from airlines due to Orbit Travel collected by NHB cash paid to Cirrillo in Australia by Nugan Hand Group	8351/52 6904/17 2000/3,31. -33 6615/46-53 5999/34
24.10.77	600.00	533.00	Maurice B. Houghton	paid by NHB to Houghton as expenses on behalf of Yorkville Nominees P/L	8416/8-11
26.10.77	23 840.46	21 212.00	Dwayne McHolick	T/T to USA by NHB - Nugan Hand Group obtained cash and services to F.J. Nugan in Australia	8416/8-11

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
4.11.77	106 220.00	94 180.00	Pamela Kibby 86.11	NHB raised an International Certificate of Deposit for money collected by Pulger-Frame in Australia and placed into the safe at NHL premises.	8419/75 8371/41 11241/2,4 10069 10065 3667/168-174
7.11.77	110 900.00	98 368.00	Unidentified	T/T to Zurich by NHB - cash collected by Pulger-Frame in Australia and placed in safe in Sydney at NHL premises	8416/12-4 6599/11 8236/35
7.11.77	51 168.00	45 385.00	Unidentified	T/T to Israel by NHB - cash collected by Pulger-Frame in Australia and placed in safe in Sydney at NHL premises	8245/58 6667/3 8256/3,25 -26 7787/12
7.11.77	114 924.16	101 937.00	Ken Murphey	T/T to Port Vila, New Hebrides by NHB - money collected by Pulger-Frame in Australia and placed into safe in Sydney at NHL premises	8371/41 4628/3 7797/88 6767/16 4642/23 6657/20
18.11.77	(2 968.00)	(2 824.00)	Ronald S. Berman	International Certificate of Deposit with NHB paid out in Australia by Nugan Hand Group	8371/34-5 4628/5 8234/140
9.12.77	30 082.50	26 550.00	Unidentified	T/T to Israel by NHB - cash collected by Pulger-Frame in Australia and placed in safe in Sydney at NHL premises	8416/16-19

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
29.12.77	22 754.02	20 000.00	Patricia J. Hayward	T/T to England by NHB of £11 857.23 - Nugan Hand Group reimbursed in Australia	8371/29 6690/35 8416/21-2 8257/186
29.12.77	20 069.20	18 360.00	Robert Cordukes	T/T to Spain by NHB - Yorkville Nominees P/L received A$18.360 from J.P. Cordukes on 16/12/77 to satisfy the T/T. Admitted by Cordukes.	8416/21-24 3569/22 4495/32 11438
29.12.77	10 645.09	9 362.00	F.Y.Kim & S.Y.Chung	NHB issued an International Certificate of Deposit for money received in Australia by Nugan Hand Group	8371/34-5 8234/210 4628.5
	4 255.00	3 870.00	Andrew H. Wong	Petty cash paid out by NHB - Nugan Hand Group reimbursed in Australia	8371/35 4588/24
16. 2.78	(1 308.30)	(1 158.00)	Don Cirillo	NHB received commissions on behalf of Orbit travel - Cirillo received the equivalent in cash from the safe at NHL premises in Australia.	8351/63-64 2000/3, 24-25
28. 2.78	5 085.00	4 500.00	Kevin Watt/ - Malcolm Illingworth	NHB paid to Hop Shing Tong Ltd - Nugan Hand Group obtained the money in Australia. Watt denied knowledge of this transaction.	8351/24-26 8321/415 8297/167 11428
28. 2.78	9 110.00	8 000.00	Grace Wee	T/T to Switzerland by NHB - the Nugan Hand Group obtained the money in Australia	8416/37-40 4495/32
10. 3.78	1 082.25	950.00	Andrew H. Wong	paid to Wong by NHB(HK$5 000) for expenses on behalf of Yorkville Nominees P/L	4642/45-7 8321/336

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
14. 3.78	(10 000.00)	8 782.00	Andrew H. Wong	Deposit to NHB by Wong who received the equivalent in Australia from the Nugan Hand Group.	7852/130 8371/30-32
15. 3.78	8 236.57	7 289.00	Kevin Watt/ - Malcolm Illingworth	NHB paid to Hop Shing Tong Ltd - the Nugan Hand Group received the money in Australia from Watt/Illingworth. Watt denied knowledge of this transaction.	8351/28-29 8297/156 4455/73 11428
1. 4.78	84 319.70	73 610.00	Dr Ogden	NHB issued an International Certificate of Deposit for money received by the Nugan Hand Group in Australia	8371/34-5 8234/152 4628/5
1. 4.78	(1 000.00)	(873.00)	Malcolm Burgess	Reduction in ICD with NHB matched by cash paid out in Australia by the Nugan Hand Group	8419/75 8371/41 8234/251
4. 4.78	66 900.00	60 000.00	Unidentified	T/T to Zurich by NHB - Pulger-Frame obtained cash in Australia placed into safe in Sydney at NHL premises	8351/32 7801/295, 310-313
4. 4.78	8 648.20	7 987.04	Unidentified - (paid to Gemex P.V.B.A.)	T/T to Belgium by NHB - money provided to Nugan Hand Group in Sydney	8351/32 7801/306-9, 295
4. 4.78	28 749.80	26 521.96	Unidentified	T/T to Israel by NHB - money provided to Nugan Hand Group in Sydney	8351/32 7801/302-305 295
13. 4.78	(1 116.50)	(971.00)	Don Cirillo	NHB received commissions due to Orbit Travel - cash paid to Cirillo in Australia by Nugan Hand Group	2000/3, 10 -21 8351/71-73 8371/31 7184/168

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
20. 4.78	33 937.35	29 600.99	Bruce Godfrey	T/T to Switzerland by NHB - money paid to Yorkville Nominees P/L by Godfrey Office Equipment P/L via invoicing taxation avoidance scheme. Godfrey denies knowledge of this transaction.	8351/32 6449 7852/130-7 8321/109
27. 4.78	3 768.11	3 334.61	Brian Frederick Honey	Deposit to NHL matching an increase in an ICD with NHB. Honey agreed this transaction occurred.	8371/41 8419/75 8684 11427
1. 5.78	(3 424.50)	(3 000.00)	Torgier Berge	Remittance by NHB for Wanglan Shipping and Trading reduced by $3 000 received by Berge in Australia from Nugan Hand Group. Berge denies knowledge of this transaction.	8371/29 7184/163 6690/35 11501
1. 5.78	10 200.00	10 000.00	William & Gloria Siu	Cash on deposit with Yorkville Nominees P/L in Australia replaced by deposit with NHB	8419/75 8371/41 6982/54 60817
1. 5.78	5 100.00	5 000.00	Mimi & M Chow	Cash on deposit with Yorkville Nominees P/L in Australia replaced by deposit with NHB	8419/75 8371/41 6982/54
1.5.78	102 000.00	100 000.00	Ella Muriel Chung	Cash on deposit with Yorkville Nominees P/L in Australia replaced by deposit with NHB	8419/75 8371/41 6982/54 6081 ?
1.5.78	51 000.00	50 000.00	J & Irene Huang	Cash on deposit with Yorkville Nominees P/L in Australia replaced by deposit with NHB	8419/75 8371/41 6982/54 60817

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
5. 5.78	29 516.93	25 992.00	John Lawrence Aston/ Kevin Murray	Transfer to Hawaii by NHB as part purchase of home unit - money collected by Nugan Hand Group in Sydney	4642/56-57 4612/2 10483/49 5985/93 7800/448-452 4588/24
8. 5.78	(20 333.33)	(17 913.00)	Unidentified	Cheque from Swiss Volksbank to NHB (F40 000)- money paid out in cash in Sydney to client from safe in NHL premises	8416/101-2 7774/106,110 -111
8. 5.78 30. 5.78 15. 6.78	53 110.00 50 850.00 47 064.50	47 000.00 45 000.00 41 650.00	Boyd Johnson	Three deposits of cash to Nugan Hand Group in Sydney and placed into safe - NHB issued certificate of deposit	8419/75 8371/41 8407/38 5980 4541
11. 5.78	(14 990.00)	(13 234.00)	Unidentified	Cheque from Bank of Aspen to NHB - money disbursed by Nugan Hand Group in Australia	8416/101-2 7774/105-106
28. 5.78	(30 168.54)	(26 700.00)	M. Levy	Money on deposit with NHB paid out in Australia by Nugan Hand Group.	8371/41 8419/75 8684
31. 5.78	(29 971.25)	(26 462.00)	Don Daisley	Reduction of deposit for Daisley with NHB - money paid by Nugan Hand Group to Daisley in Australia. Daisley denies knowledge of this transaction.	8371/29 6690/35
6. 6.78	6 780.00	6 000.00	Kevin Watt/ - Malcolm Illingworth	Transfer by NHB to Hop Shing Tong Ltd in Hong Kong - Nugan Hand Group received cash in Australia to compensate. Watt denied knowledge of this transaction.	8351/40-3 7801/99-102 11428

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
6. 6.78	12 844.80	11 325.00	Col. H.M. Jensen	HK$59 343 Cheque from NHB to Jensen which extinguishes a deposit with NHL	4642/88-9 8892/53-80
7. 6.78	2 047.50	1 800.00	Alex Lee	T/T to Spink & Sons, England by NHB of £1 100 - money collected in Australia by Nugan Hand Group	4642/88-9 7852/126-7
8. 6.78	(23 797.20)	(20 955.00)	Haakon Heggelunde	Reduction of ICD with NHB due to payment in Australia by Nugan Hand Group partly met by $17 000 bank-to-back loan to Heggelunde by Illarangi Investments Pty Ltd.	8371/38 8234/191
8. 6.78	(1 580.23)	(1 392.00)	Trevor H. Plant	Cash and travellers cheques deposited to NHB - payment to Indac P/L in Australia to compensate	6939/3,11-20 8351/80-1 8419/7,65-16 8242/67
16. 6.78	2 164.50	1 900.00	Andrew Wong	Cheque to Wong from NHB reimbursed by Wong to Nugan Hand Group in Australia	4642/91-2 10297/20-1
21. 6.78	(23 340.17)	(20 500.30)	Don Daisley	Money deposited to NHB - payment made by Nugan Hand Group in Australia. Daisley denies knowledge of this transaction.	8371/38 4588/24 8416/78-80
21. 6.78	21 589.63	18 870.00	Robert Schmidt	T/T via Deak & Co to Chicago, U.S.A. by NHB - money provided to Nugan Hand Group by D. Daisley in Australia. Daisley denies knowledge of this transaction.	4642/91-2 7184/86,39 7693/96,106 9616/13-4 4455/76 6615/13

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
3. 7.78	8 238.77	7 162.00	John Aston/ - Kevin Murray	Payment by NHB for unit in Hawaii for Aston & Murray - Nugan Hand Group reimbursed in Australia	8350/3-7 8261/273-4 6615/14-15
13. 7.78	11 336.08	9 857.00	Stuart Gillett	Cash paid by NHB to Gillett - money collected from him by Nugan Hand Group in Australia. Gillett claimed the transaction was on behalf of M. Sanderson.	8377/4-6 7852/110-120
17. 7.78	15 271.33	13 284.00	Torgier Berge	NHB purchased travellers cheques for Berge who paid Nugan Hand Group for them in Australia. Berge was unable to recall this transaction.	8377/4-6 8428/59,58A 7184/103 11445
25. 7.78	25 000.00	21 653.00	Unidentified	Cash cheque paid by NHB - money collected by Nugan Hand Group in Australia	8368/6-7 8260/73 8257
28. 7.78	2 401.18	2 075.00	John Aston/ - Kevin Murray	Payment by NHB for unit in Hawaii for Aston & Murray - Nugan Hand Group reimbursed in Australia	8377/8-10 7852/102-3 8428/34-6 4644/6-8 10183/8 8419/51 4592/7
31. 8.78	31 571.59	27 347.00	Marlow Enterprises Ltd	Journal entry adjusting NHL account in NHB books relating partially to Marlow - balance not identified.	4592/4 8372/5 4495/42 8888/19

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
31. 8.78	57 366.00	50 000.00	Bocodo Enterprises	Payment by NHB to Rudolf Wolff & Co HK Ltd - cash collected by Nugan Hand Group in Australia	8350/15-16 7852/96,97, 101 1894/22,25
7. 9.78	1 840.85	1 620.00	P.A. W. Horvath	T/T of £948.58 to London by NHB - Nugan Hand Group reimbursed in Australia	8368/17-18 8260/107-111
18. 9.78 22. 9.78 29. 9.78	8 016.61 8 011.15 8 058.01	7 007.00 7 007.00 7 007.00	Bruce Godfrey	Payments by NHB to Egilo Establishment in Switzerland - Nugan Hand Group reimbursed by payments to Nugan Hand Trade Services P/L by Godfrey Office Equipment Pty Ltd via an invoicing taxation avoidance scheme. Godfrey denies knowledge of these transactions.	8268/17-23 8260/83-6 139-141 151-153, 191-192 6449
28. 9.78	(22 000.00)	(18 975.00)	Unidentified	Cash received by NHB as reimbursement for a payment by Nugan Hand Group in Australia	8365/26-27 8257/41
5.10.78	4 742.56	4 072.00	John Aston/ - Kevin Murray	Payment by NHB for Aston & Murray's apartment in Hawaii - Nugan Hand Group reimbursed in Australia.	8377/36-7 7852/89-90
6.10.78	232.96	200.00	Steven Kenneth A. Hill	NHB paid £110 to purchase parts for Hill's motor vehicle - Nugan Hand Group reimbursed in Australia	8377/36-7
9.10.78	11 730.00	10 112.00	Dwayne McHolick	T/T to USA by NHB - Nugan Hand Group obtained cash and services for F.J. Nugan in Australia	8365/6,13
11.10.78 12.10.78	8 030.00 4 525.63	6 909.00 3 877.00	Maurice B. Houghton	T/T by NHB to Australia to Comserv 203 P/L - Reimbursement to Nugan Hand Group not established	8368/24-7 8260/193-9

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
16.10.78	2 500.00	2 142.00	E. Achterberg	Payment by NHB to Nugan Hand Nominees Ltd for fees due from Achterberg's Hong Kong nominee company, Lo Fat Investments Ltd - Nugan Hand Group received cash in Australia	8350/18-20 7852/85-88
6.11.78	7 163.64	6 214.00	R.J. Fisher	T/T £3 600 to UK by NHB - Nugan Hand Group reimbursed in Australia	8350/26-7 7852/77-80
10.11.78 13.11.78	11 060.11 10 057.61	9 572.00 8 721.00	Admiral E.P. Yates	T/T to USA for Yates by NHB- reimbursement to Nugan Hand Group not established	8365/10,18 7789
13.11.78	(21 645.03)	(18 770.00)	Stuart Gillett	Cheque received by NHB from Speaktrust Ltd for HK$100 000 - NHB paid Gillett HK$3 000 from petty cash. Residue received by Gillett in cash in Australia from Nugan Hand Group. Gillett told Commission Investigators the transaction was on behalf of M. Sanderson.	8377/69-70 8444/26 8445/7-8 6695/44
14.11.78	2 367.96	2 000.00	Ian Gowrie-Smith	Payment by NHB for shares in Aquila Investments Corp Ltd cash collected by Nugan Hand Group in Australia	8377/44-7 5978/4 7852/66-70
-	432.90	394.00	Mrs Concuesa	NHB paid on behalf of Andrew Wong - money collected in Australia by Nugan Hand Group	8371/41 4628/3 4588/24
28.11.78	61 913.00	54 500.00	Bocodo Enterprises	NHB paid Rudolf Wolff & Co HK - cash collected by Nugan Hand Group in Australia	8350/26-7 1894/12-18

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
1.12.78	7 991.51	7 007.00	Bruce Godfrey	Payment by NHB to Egilo Establishment in Switzerland - Nugan Hand reimbursed via invoicing taxation scheme when payments were made to Nugan Hand Trade Services P/L by Godfrey Office Equipment P/L in Australia. Godfrey denies knowledge of this transaction.	8225/3-4 6449
5.12.78	1 801.39	1 523.00	Lloyd Thomas	Payment by NHB extinguishing a deposit held by Lloyd with Yorkville Nominees P/L in Australia	8375/3-4 7184/3 6084/3-9 11-13
28.12.78	186 111.00	161 485.00	Madame Ha Niat Yin	Payment by NHB to Khattar Wong & Partners - reimbursement to Nugan Hand Group not established	8358/3-8 8326/400-3 1934/2
3. 1.79	8 123.63	7 007.00	Bruce Godfrey	Payment by NHB to Egilo Establishment in Switzerland - Nugan Hand Group reimbursed by cheque from Godfrey Office Furniture P/L in Australia to Nugan Hand Trade Services P/L. Godfrey denies knowledge of this transaction.	8225/13-15 6449
11. 1.79	40 000.00	34 944.00	Bocodo Enterprises	NHB paid Rudolf Wolff & Co (HK) Ltd - cash collected by Nugan Hand Group in Australia	8295/9 1894/6-7 7852/52
15. 1.79	593.85	520.00	Alex Lee	T/T £295 to Spink & Son by NHB - Nugan Hand Group reimbursed in Australia	8358/16-18 8307/53-57 7852/48-51
15. 1.79	11 601.73	10 000.00	Ronald Cheung	Cheque from Cheung banked to Mars Road Investments P/L - Cheung received payment by NHB in Hong Kong	8375/10-11 7852/54-56

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
17. 1.79	5 401.00	4 725.00	Bocodo Enterprises	NHB paid Rudolf Wolff & Co (HK) Ltd - cash collected by Nugan Hand Group in Australia	8358/16-18 8326/293-4 1894/8-11
18. 1.79	1 159.09	1 000.00	Ian Gowrie-Smith	Payment by NHB for shares in Aquila Invest -ments Corp Ltd - cash collected by Nugan Hand Group in Australia	8375/10-11 5978/4,12 7693/176,324 8326/290
19. 1.79	(14 751.23)	(12 888.00)	Kevin Watt/ - Malcolm Illingworth	NHB received from Hop Shing Tong Ltd in Hong Kong - Nugan Hand Group paid out in Australia. Watt denied knowledge of this transaction.	8358/21-3 11428
21. 1.79	43 716.86	37 200.00	Malcolm Clyde Smith	T/T to Hawaii by NHB - cash collected in Australia by Nugan Hand Group	7852/34-40 5475/19
22. 1.79	13 719.63	12 000.00	R.J. Fisher	T/T £6802 to London by NHB - Nugan Hand Group reimbursed by cash in Australia	8358/16-18
1. 2.79	7 993.68	7 007.00	Bruce Godfrey	Payment by NHB to Egilo Establishment in Switzerland - Nugan Hand Group reimbursed via invoicing taxation avoidance scheme when cheques were received by Nugan Hand Trade Services Ltd from Godfrey Office Equipment P/L. Godfrey denies all knowledge of this transaction	8225/19-20 6449
19. 2.79	5 844.16	5 000.00	Ronald Cheung	NHB payment to Cheung - Cheung deposited cheque to Mars Road Investments Pty Ltd in Australia to compensate	8375/17-20 7852/30-3

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
6. 3.79	(15 584.12) 3 534.30	10 702.00	Stuart Gillett	Cheque from Speaktrust Ltd for HK$72 000 deposited to NHB - cash paid out by Nugan Hand Group in Australia and Gillett received part of it in Hong Kong from NHB petty cash (US$3 534.30). Gillett told Commission Investigators that the transaction was on behalf of M. Sanderson.	8375/38-39 8445/12 7790/64-5 7184/107 8218/150-153
6. 3.79	6 445.70	5 725.00	Unidentified	NHB paid from petty cash in Singapore (HK$31 003.80)	8372/24 8223/25-6 36, 90, 5 8218/150-1
7. 3.79	20 200.00	17 933.00	Geoffrey L. Horton	Payment by NHB - Nugan Hand Group reimbursed by reduction of Hortons deposit with NHL transferred into Mars Rd Investments P/L	8358/32-4 1950/18 8618/56 5475/18
21. 3.79	50 000.00	44 567.00	Leslie H. Collings	Payment by NHB to Collings - Nugan Hand reimbursement not established (possibly salary, commissions or deposit on behalf of a client)	8375/32-4 7852/28 8303/262
22. 3.79	(4 689.98)	4 000.00	Steven Ng	Cheque from C.& G.Ng deposited to NHB - Nugan Hand Group paid Ng in Australia	8375/38-9 7852/23-27 7790/45-7
4. 4.79	16 141.22	14 500.00	John Aston/ Kevin Murray	T/T to Hawaii for Aston & Murray by NHB - Nugan Hand Group compensated in Australia	8375/44-46 8430/172-5
11. 4.79	6 006.49	5 000.00	Ronald Cheung	Cheque from Cheung banked to Mars Rd Investments P/L - Cheung received payment by NHB in Hong Kong	8375/44-6 7852/21-2

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
30. 4.79	1 852.81	1 545.00	Kevin Watt/ Malcolm Illingworth	NHB paid Hop Shing Tong Ltd - Nugan Hand Group reimbursed in Australia. Watt denied knowledge of this transaction.	8375/52-3 8218/150-1 11428
3. 5.79	5 517.70	5 012.00	Ronald Cheung	Cheque from Cheung cashed by Nugan Hand Group in Australia and proceeds placed into safe of NHL premises - NHB paid Cheung in Hong Kong	8375/57-64 8358/49-60 7852/15-17 8336/140
24. 5.79	7 866.45	7 120.00	Christopher T. O'Neil	T/T by NHB to London satisfied by deposit to Mars Rd Investments P/L - O'Neil admitted depositing funds in Sydney.	8358/49-51 8233/81 7852/14 8336/32 8436/382 11430
24. 5.79	1 100.00	1 000.00	John McArthur	NHB petty cash payment in Singapore - reimbursement to Nugan Hand Group not established (possibly salary, commissions or deposit from client, etc)	8372/27 8223/70-1 81
30. 6.79	2 311 424.58	2 057 342.60	Unidentified	NHB journal entry against deposits accepted (transactions on schedule B may form part of this entry).	8372/30
15. 8.79	16 619.08	14 685.00	David Armstrong-Smith	T/T by NHB to Spink & Sons of £7 350 to purchase coins as a return of money from a taxation avoidance scheme with Leserv P/L in Australia	8362/45-9 10976
28. 8.79	19 649.37	16 000.00	Thomas Paul Rona	T/T by NHB to Spink & Sons of £7 890 to purchase coins as a return of money from a taxation avoidance scheme with Leserv P/L in Australia	8376/22-26 10976 (pt.2) /33

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
10. 9.79	2 000.00	1 768.00	S.I. or L. Amin	T/T to Texas USA by NHB - Nugan Hand Group reimbursed by A. Wong in Australia.	8362/37-9 8440/135 7852/3-4 7538/111
17. 9.79	45 098.16	40 000.00	Maria Disalvo	T/T by NHB to Dwyer Forbes & Yeo in in Australia - cash received by Nugan Hand Group in Australia to compensate for the transaction	4640/17-20 8381/278
17. 9.79	55 095.78	49 000.00	George Shamoun	Demand draft purchased by NHB and handed to Shamoun in Singapore - Nugan Hand Group obtained cash from Shamoun in Australia	4640/74 1950/25,26
20. 9.79	(2 207.80)	(1 963.00)	Andrew H. Wong	Reimbursement by A. Wong to NHB for payment by Nugan Hand Group in Australia	8376/40-1 8327/38-40
24. 9.79	(9 891.77)	(8 754.00)	Alex Chung	Cheque deposited to NHB - Nugan Hand Group paid Chung in Australia	8376/42-3 8436/37 8327/29-31
8.10.79	7 900.00	7 007.00	Bruce Godfrey	Payment to Egilo Establishment in Switzerland by NHB - Nugan Hand Group reimbursed by cheque in Australia from Godfrey Office Equipment P/L to Nugan Hand Trade Services as part of an invoicing taxation avoidance scheme. Godfrey denies knowledge of this transaction.	4640/23-4 6449
17.10.79	17 060.00	(*)15 345.00	Lake Jay Wood	T/T to Holland by NHB of funds held on deposit with Nugan Hand Inc Panama. Nugan Hand Group had received the money from Wood in Australia in 1975 and gave credit with Nugan hand Inc. Panama.	8362/27-9 6454/127-131 50-58

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
25.10.79	5 974.02	5 000.00	Ronald Cheung	Cheque from Cheung deposited to Mars Rd Investments P/L in Australia - NHB reimbursed Cheung in Hong Kong	8376/47-51 7185/23-5
30.10.79	7 649.36	6 300.00	John L. Aston Kevin Murray	Payment to Hawaii by NHB for home unit - Nugan Hand Group reimbursed in Australia	8376/47-51 7185/27-30 4644/3-4
5.11.79	1 082.26	982.00	Keith Bakker	NHB paid cash to Bakker - Nugan Hand Group reimbursed in Australia	8223/168-170 175-7 8376/57-8 7185/55-8
6.11.79	43 290.03	36 344.00	Col. H.M.J. Jensen	Cheque paid by NHB (HK$200 000) - A. Wong deposited A$45 350 cash to Mars Rd Investments P/L in Australia to compensate on 18.12.79	8376/57-8 8439/2302 10284/7 5475/52 8431/4-6
12.11.79	400.00	365.00	Keith Bakker	NHB petty cash payment - money retrieved by Nugan Hand Group in Australia	4636/23 7185/52-8
4.12.79	(22 000.00)	(20 000.00)	Stuart Gillett	Money on deposit with NHB reduced by cash paid from safe in Australia to Gillett by Nugan Hand Group. Gillett told Commission Investigators that the transaction was on behalf of M. Sanderson.	4636/2-4, 6-10,13,16 5478/39 8414/443
-	45 000.00	40 910.00	Unidentified	Paid from Petty Cash by NHB on behalf of Nugan Hand Inc Panama - details of reimbursement to Nugan Hand Group not established	4636/2,5 4495/33 4580/26

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
15. 1.80	(50 375.05)	(50 000.00)	Jerry Gilder	Deposit to NHB (S$110 149) - Mars Rd Investments Pty Ltd paid out cheque in Australia to Bruttron Investments P/L	7769/3-6 10584 10019 8362/3-4
18. 1.80	(2 400.00)	(2 157.00)	Maurice B. Houghton	Travellers cheques deposited to NHB from Houghton - Nugan Hand Group paid it out in Australia (either to Houghton or to a client)	4640/16,45 7755/50 8418/63
21. 1.80	15 037.37	13 522.00	Unidentified	T/T by NHB to Rivkin & Co London - money collected by Edelsten in Australia for Nugan Hand Group	4640/88 8602/38 6702/14-20 35
29. 2.80	(4 000.00)	(3 633.00)	Lawrence Royce Moore	Interest due on an International Certificate of Deposit with NHB paid out by Nugan Hand Group in Australia	4636/22 8394/45
25. 3.80	824.24	700.00	Nicholas Kalliakoudis	NHB paid to Kalliakoudis - money received in Australia on 6.6.79 in cash by F.J. Nugan and credit given as $500 with NHB (79-06-3297-A) and $200 with F.A.N (a cheque book was issued)	7185/40-9 4568/3-20 8394/10-15
TOTAL		A$ 4 790 536.20			

Abbreviations

NHB - The Nugan Hand Bank

NHL - Nugan Hand Ltd

RBA - Reserve Bank of Australia

T/T - Telegraphic Transfer

ICD - International Certificate of Deposit

P/L - Pty Limited

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SCHEDULE E

YORKVILLE CONTRA TRANSACTIONS

Yorkville Contra Transactions located in account in books of Nugan Hand Bank titled 'Nugan Hand Ltd'.
(refer to end of schedule for explanation of abbreviations used)

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
2. 7.77	3 568.25	3 193.00	Wing On Bank	Payment by NHB of a fee for letters of guarantee provided by Wing On Bank to NHL clients (HK$16 485.33)	6690/20 7797/394
10. 8.77	38 640.81	34 905.00	Overseas Trust Bank	Payment by NHB on behalf of NHL (HK$178 520.55)	6690/20 7797/345
14.10.77	22 240.00	20 000.00	Peter H. Walker	Clients cheque banked to Nugan Hand Ltd in Australia and credit given by NHB to client number 77-10-3130-H	6690/20 6904/25 8412/63
15.12.78	(25 952.92)	(22 921.91)	Peggy Boyd Pracey	NHL reimbursement to NHB for prior payment of this loan to NHL by NHB.	8888/19 2899 3816
17. 1.78	5 411.26	4 745.00	NHL	Payment by NHB into bank account of NHL with Wing On Bank in Hong Kong (HK$25 000) to enable NHL to pay commissions on safe custody account	6690/20 7802/260 7838/146
10. 2.78	36 007.83	31 862.00	Overseas Trust Bank	NHB paid on behalf of NHL	6690/20 8351/24
2. 3.78	809.52	710.00	Search Asia Ltd	NHB paid 'set up fees' on behalf of NHL (HK$3 740)	6690/20
3. 4.78	5 844.16	5 088.00	NHL	NHB paid into an overseas bank account for NHL (HK$27 000)	6690/20 7837/199

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
14. 4.78	1 000.00	871.00	NHL	NHB paid into an overseas bank account for NHL	6690/20 7774/238
27. 4.78	308.21	271.00	Fidelity Bank	NHB paid balance of interest due on behalf of NHL	6690/20 7801/261,263
28. 4.78	(282 825.00)	(248 397.00)	Rayday (HK) Ltd	NHL reimbursement to NHB of payment by NHB on NHL's behalf	6690/20 7841/72 7185/67
-	5 649.00	5 135.00	Doora Pty Ltd	Details not established	6690/20
9 6 78	11 591.60	10 207.00	Reterden Ltd	Payment by NHB of interest on deposit with NHL	6690/20 7836/182-3 8297/103 3900/11
12. 6.78	(57 899.54)	(50 972.00)	Reterden Ltd	NHL reimbursement to NHB for earlier payments by NHB of interest on behalf of NHL	6690/20 7836/179 3924/18
27. 6.78	(20 336.02)	(17 710.00)	Reterden Ltd	Reimbursement to NHB of interest on a deposit with NHL previously paid by NHB	6690/20 6791/131 7801/11-12 7836/131
30. 6.78	34 520.22	30 020.00	Reterden Ltd	Payment by NHB of interest on deposit with NHL	6690/20 7836/125-6 8297/82
7 7.78	(17 759.99)	(15 448.00)	Reterden Ltd	NHL reimbursing NHB for earlier payment	6690/21 8444/63 7836/94

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
11. 7.78	5 386.77	4 675.00	Wing On Bank	NHB paid commission to Wing On Bank for guarantees given to clients of NHL. (HK$25 000)	6690/21 8350/3
11. 7.78	18 898.45	16 403.00	Reterden Ltd	NHB paid interest on behalf of deposit with NHL	6690/21 8297/70
27. 7.78	8 097.94	7 007.00	Bruce Godfrey	Payment by NHB to Egilo Establishment in Switzerland - money collected via management taxation avoidance scheme in Australia from Godfrey Office Equipment Pty Ltd. Godfrey denied knowledge of this transaction.	6690/21 8368 8260/83-6, 139-141, 151-153, 191-192
2. 8.78	47 135.42	40 592.00	Inter Alpha Asia (HK) Ltd	Payment by NHB of interest on a deposit with NHL	6690/21 8297/39 4130/99
10. 8.78	(38 965.28)	(33 683.68)	Inter Alpha Asia (HK) Ltd	Interest payment by NHB reimbursed by NHL	6690/21 7839/210
10. 8.78	36 007.82	30 990.00	Overseas Trust Bank Ltd	NHB paid on behalf of NHL (HK$166 356.16)	6690/21 8261/191
17. 8.78	36 858.80	31 720.00	Sun Hung Kai Finance Co. Ltd	NHB paid interest on behalf of deposit with NHL (HK$170 287.67) and was not fully reimbursed.	6690/21 7833/194 8261/145
18. 8.78	(35 714.28)	(30 828.00)	Sun Hung Kai Finance Co. Ltd.	Deposit to NHB from NHL (HK$165 000.00) to reimburse NHB payment	6690/21 8377/65 3852/B 5121, 3816

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
22. 8.78	9 391.88	7 283.00	Search Asia Ltd	NHB paid interest on deposit with NHL (HK$43 390.41)	6690/21 8261/140
31. 8.78	20 803.68	18 020.00	Wardley Ltd	Payment by NHB of interest due by NHL on deposit in Australia (HK$96 113.02)	6690/21 7229/3,56-8 8261/76
31. 8.78	9 820.32	8 506.00	Search Asia Ltd	Payment by NHB of interest due by NHL on deposit in Australia (HK$45 519.48)	6690/21 8261/75
4. 9.78	(20 924.51)	(18 097.32)	Wardleys Ltd	NHL reimbursed NHB for earlier payment of interest due on deposit with NHL (HK$96 671.23)	6690/21 3762 3821/12-14 7833/135
5. 9.78	2 500.00	2 165.00	Rayday (HK) Ltd	Incorp. fee, management fee and bank account deposit paid by NHB to NHNL	6690/21 8297/115
7. 9.78	(9 495.64)	(8 225.00)	Search Asia Ltd	NHL reimbursed NHB for earlier payment of interest due on deposit with NHL (HK$43 869.86)	6690/21 7833/135
11. 9.78	27 152.64	23 644.00	Ayala Finance (HK) Ltd	Interest on deposit with NHL paid by NHB (HK$125 445.21)	6690/21 8287/478 7833/132
31.10.78	(216.46)	182.00	Search Asia Ltd	NHB overpaid interest on a deposit on behalf of NHL (HK$1 000)	6690/21 8377/65
9.11.78	1 731.60	1 498.00	Rayday (HK) Ltd	Capital fee paid by NHB (HK$8 000) to Nugan Hand Nominees Ltd	6690/21 7514/176
11.12.78	13 037.36	11 283.00	Reterden Ltd	Interest paid by NHB on behalf of NHL	6690/21 7842/103

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
12.12.78	(660 357.74)	(572 978.00)	C.F.D. Stark	NHL reimbursement to NHB for earlier repayment to Stark by NHB	6690/21 8358/10 6517/7
28.12.78	39 313.10	34 111.00	Reterden Ltd	Interest paid by NHB on behalf of NHL	6690/21 8299/23
11. 1.79	21 420.61	18 713.00	Reterden Ltd	NHB paid quarterly interest on behalf of deposit with NHL	6690/21 8326/323 6454/87
11. 1.79	5 262.05	4 597.00	NHL	NHB deposit to Hong Kong bank account for NHL to cover commissions re safe custody account. (HK$25 000)	6690/21 7520/284
2. 2.79	54 944.44	48 542.00	Inter Alpha Asia (HK) Ltd	NHB paid interest on behalf of NHL	6690/21 8326/180
9. 2.79	(1 000 000)	(880 669.31)	NHL	Reimbursement to NHB by NHL of principal of deposit with NHL	6690/21 4130/91
10. 2.79	874 699.84	768 292.00	Overseas Trust Bank Ltd.	NHB paid principal and interest on behalf of NHL	6690/21 7520/201
23. 2.79	10 365.89	9 164.00	Search Asia Ltd	NHB paid interest on behalf of NHL (HK$47 890.41)	6690/21 8326/39
1. 3.79	10 196.88	9 105.00	Search Asia Ltd	NHB paid interest on behalf of NHL (HK$47 109.59)	6690/21 8433/115-6 8435/190 8324/28
12. 3.79	30 759.66	27 308.00	Ayala Finance (HK) Ltd	NHB paid interest on behalf of NHL	6690/21 8324/118

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
14. 3.79	38 936.95	34 675.00	Wardley Ltd.	Payment by NHB on behalf of NHL not fully reimbursed by NHL	8888/20 7229/37-40 3821/4
10. 4.79	4 329.00	3 884.00	NHL	Payment by NHB to bank account for NHL (HK$20 000) with Wing On Bank in Hong Kong	6690/21 8430/129-131 8324/48
11. 6.79	245 874.00	221 650.00	Reterden Ltd.	Payment of principal and interest by NHB of deposit with NHL	6690/21 8440/696 8436/348 8432/143
11. 6.79	24 817.65	22 372.00	Ayala Finance (HK) Ltd	Payment by NHB of interest on deposit with NHL (HK$114 657.53)	6690/21 8440/642
1. 7.79	(17 208.50)	(15 557.67)	Brian Frederick HONEY	ICD with Nugan Hand Bank swapped for a deposit with Nugan Hand Ltd	6690/50 8684
3. 7.79	712 928.36	635 409.00	Reterden Ltd	NHB repaid on behalf of NHL partially reimbursed by NHL in September	6690/50 8436/268 8440/533 7538/452
5. 7.79	5 000.00	4 440.00	NHL	NHB payment to Hong Kong bank account for NHL	6690/50 7538/421
11. 7.79	26 753.83	23 764.00	Reterden Ltd	Payment of interest on behalf of NHL by NHB	6690/50 8440/483
3. 8.79	2 520.38	2 225.00	Reterden Ltd	Payment of interest on behalf of NHL by NHB	6690/50 8440/314 8362/49

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
3. 8.79	62 847.22	55 490.00	Inter Alpha Asia (HK) Ltd	Payment of interest on behalf of NHL by NHB	6690/50 8440/346
17. 8.79	58 352.60	51 640.00	Sun Hung Kai Finance Ltd	NHB paid interest of HK$269.589.05 on behalf of NHL with RBA approval not reimbursed by NHL	6690/50 8440/249 8327/432
23. 8.79	232 013.87	204 960.00	Search Asia Ltd	Principal and interest paid by NHB on behalf of NHL (HK$1 071 904.11)	6690/50 8327/427
31. 8.79	232 271.83	205 405.00	Search Asia Ltd	Principal and interest paid by NHB on behalf of NHL (HK$1 073 095.84)	6690/50 8327/403
6. 9.79	(661 709.09)	(585 428.00)	Reterden Ltd	NHL payment to NHB to compensate for NHB payments on behalf of NHL	6690/50 8438/215 8305/422-4
12. 9.79	26 774.64	23 688.00	Ayala Finance (HK)Ltd	NHB paid on behalf of NHL (HK$123 698.82)	6690/50 8440/131
1.10.79	4 329.00	3 832.00	NHL	Payment by NHB to bank account of NHL in Hong Kong (HK$20 000)	6690/50 8440/8
9.11.79	(497 034.93)	(419 186.08)	Search Asia Ltd	NHL reimbursement to NHB of principal and interest on loan with RBA approval. (HK$2 296 301.37)	6690/50 8376/69 8441/73
12.12.79	26 496.03	23 630.00	Ayala Finance (HK) Ltd	Payment by NHB on behalf of NHL (HK$130 890.41)	6690/50 8362/12 7772/2460
4. 1.80	4 761.90	4 282.00	NHL	Payment to Hong Kong bank account for NHL (HK$22 000)	6690/50 8376/86

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
10. 1.80	387 060.62	347 140.00	Reterden Ltd	NHB paid on behalf of NHL	6690/50 8302/222-4 8311/84
25.3.80	53 945.00	49 600.00	Ha Niat Yin	Payment by NHB of deposit held by NHL with RBA approval on behalf of NHL	6690/50 7956/64 8354
25.03.80	27 862.80	25 620.00	K. L. Lim	Payment by NHB of deposits held by NHL with RBA approval for Ha Niat Yin	6690/50 7956/63
TOTALS	US$6 883 029.14	A$6 108 904.97			

(NB: Transactions with brackets indicate a credit transaction to NHL account in NHB books. However, they are added into the total, not offset against the transactions without brackets. Accordingly, the total reflects the total turnover of Yorkville Contra transactions in each of the three schedules).

Abbreviations

NHB - The Nugan Hand Bank

NHL - Nugan Hand Ltd

RBA - Reserve Bank of Australia

ICD - International Certificate of Deposit

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SCHEDULE F

YORKVILLE CONTRA TRANSACTIONS

Transactions not located in 'Yorkville Contra' account nor NHL account in NHB books.
(refer to end of schedule for explanation of abbreviations used)

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
21. 5.75 30. 5.75	5 003.98 1 900.00	3 730.00 1 412.00	Karl Schuller	Payments to an account for R.G. Schattleitner by Nugan Hand Inc. Panama on a Swiss Bank account described as 'Australian contra'	8227/32
21. 5.75	25 460.00	18 883.00	Ernst Schinkasch	Payment by Nugan Hand Inc. Panama on a Swiss Bank account described as 'Australian contra'	8340/31 8227/32
30. 5.75	4 028.55	2 994.00	W.Dankelman	Payment by Nugan Hand Inc. Panama on a Swiss Bank account described as as 'Australian contra'	8227/32
24.11.75	63 034.40	49 857.00	Nicholas V. Elberg/ Darnielle Tonneau	to Switzerland by Nugan Hand Inc. Hawaii - money collected by Nugan Hand Group in Australia	5981
28. 2.76	2 695.00	2 132.00	Sun Hung Kai Finance	Interest on deposit with NHL with RBA approval overeimbursed to NHHK by NHL even though paid by Nugan Hand Inc. Panama	4156, 3780, 7224/127-29, 132, 1557/85 3978/24,17, 8340/7
10. 3.76 25. 3.76	1 985.00 5 010.00	1 587.00) 4 000.00)	Dignified Trading Co. Ltd.	Advances by NHHK against loan to NHL with RBA approval not reimbursed by NHL until October 1976	3897/8,9,11 3919/28 10010/23
21. 6.76	6 168.00	5 000.00	Stephen Lee (Lee Kam Pang)	Money deposit with Yorkville Nominees P/L paid out by NHHK in Hong Kong ($250 fee charged)	7205/11-13

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
22. 7.76	20 854.17		B.N.S. International	Interest due by NHL paid by NHHK not reimbursed by NHL	
14. 8.76	9 830.00	7 903.00	Sun Hung Kai Finance	Interest on deposit with NHL with RBA approval paid by NHHK and not reimbursed by NHL	1557/91 3826/18
6. 9.76	18 005.00	14 406.00	Ayala Finance Ltd	Interest paid by NHHK on loan with NHL with RBA approval not reimbursed by NHL until 29.10.76	3846/17,21
10. 9.76	68 740.00	55 000.00	Ron Manners	Cheque from Hill Rogers & Assoc. to Nugan Hand Limited matched by ICD raised with NHB (client number 76-3057-H) for Abacus Hong Kong Ltd	5983/8,9
29.10.76	5 665.00	4 610.00	Dignified Trading Co. Ltd.	Reimbursement by NHL to NHHK overpaid (although debt taken up by NHB)	3919/9 7609/32 4142/49-50 10010/42,50
29.10.76	18 680.00	15 203.74	Ayala Finance Ltd	Reimbursement by NHL to NHHK for prior payment of interest on NHL loan	4142
8.12.76	(43 684.00)	(42 000.00)	Ella Muriel Chung	Deposits to NHHK but credit given by Nugan Hand Group in Australia	7197/3, 10-22
8.12.76	(27 563.00)	(26 500.00)	P.C. Chang	Deposits to NHHK but credit given by Nugan Hand Group in Australia	7197/3, 10-22
8.12.76	(104 010.00)	(100 000.00)	H. Wong	Deposits to NHHK but credit given by Nugan Hand Group in Australia	7197/3, 10-22
9.12.76	(73 632.38)	(70 793.56)	Andrew Wong	Deposited to NHB but credit given by Nugan Hand Group in Australia	7197/3, 10-22

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
21.12.76	(3 175.30)	(2 998.11)	Kevin Watt/ - Malcolm Illingworth	Cheque to M. & K. Sales from Nugan Hand International Holdings P/L in Australia - ICD reduced with NHB. Watt denies knowledge of this transaction	4138/65-6 6522/231 971/27
24.12.76	656.54	605.00	Kevin Watt/ - Malcolm Illingworth	Payment by Nugan Hand Trade Asia Ltd on behalf of MK Sales - reimbursed to Nugan Hand Group in Australia. Watt denied knowledge of this transaction	971/35 10582/26-7
18. 1.77	521 958.33	-	B.N.S. International	Payment of principal and interest by NHB on behalf of NHL not reimbursed by NHL	3720/94
10. 2.77	42 196.23	38 765.00	Overseas Trust Bank	Payment of interest on behalf of Nugan Hand Ltd. not reimbursed to NHB	6620/140
3. 3.77 to 27. 2.80	69 009.20	62 735.00	(Suvit) Chavivan Dejakaisaya	Deposit account number 77-40(15)51-T set up in 1977 (with projected interest) for payments to clients daughters (during their education) in Australia by Nugan Hand Group	4180
28. 2.77	20 500.00	18 652.00	Wardley Ltd.	Interest on RBA approved loan with NHL funded by NHB and not reimbursed by NHL	8363/72-3
17. 3.77	6 605.00	6 000.00	Katz	NHB cheque to Gemsland in Hong Kong Nugan Hand Group reimbursed in Sydney	7762/24-9 8378/21
1. 4.77	74 949.00	70 000.00	Francois Gœlo	T/T to Paris by NHB - cash collected in Australia and placed in safe at Nugan Hand Ltd's premises.	10166 10211 7609/83

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
12. 4.77	1 667.00	1 500.00	Anthony Twohill	Cost of formation of HK nominee company (F.W. International Electronics Co. Ltd) paid by NHB - money provided to Shaw for Nugan Hand Group in Australia	6904/135, 150
14. 4.77	27 500.00	25 000.00	Ron B. Manners	ICD with NHB increased by money received by Shaw for Nugan Hand Group in Australia for Nugan Hand	8234/160 5983/35-6, 38
19. 4.77	177 264.00	160 000.00	Eastland Developments	Yorkville Nominees P/L provided back to back loan against funds lodged in Hong Kong	1250/2020-38 3086/25-7 3231
22. 4.77	(27 665.00)	(25 000.00)	Don Daisley	Part of a deposit to NHB paid out by Nugan Hand Group in Australia. Daisley denies knowledge of this transaction	7852/183
3. 5.77	2 212.00	2 000.00	Charles Beveridge	Reduction of deposits held by Beveridge with Yorkville Nominees P/L in Australia - transfer by NHB to UK of equivalent in £ sterling. Beveridge failed to collect the money from Edelsten in UK. Edelsten returned the money to Nugan Hand Group in Australia (effect is that money is transferred from NHB to Australia.)	7852/191-2 6026/28-9
10. 5.77 to 26. 5.77	57 490.00	52 000.00	Francois Gœlo	T/T to Paris by NHB - cash collected in Australia and placed in safe at premises of Nugan Hand Ltd.	10166 10211 7609/51
11. 5.77	34 249.63	30 000.00	Louis Khamis	T/T to Lebanon by NHB. Nugan Hand reimbursed with funds held in Australia by Yorkville Nominees P/L for Khamis	7852/166 -183

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
29. 6.77	(4 620.00)	(4 200.00)	Malcolm Illingworth/ Kevin Watt	Reduction of ICD with NHB due to payment by Nugan Hand Group in Australia. Watt denies knowledge of this transaction	6904/77
22. 7.77	54 366.22	48 261.00	Francois Goelo	T/T to Paris by NHB - cash collected in Australia and placed in safe at premises of Nugan Hand Ltd.	10166 10211
12. 9.77	27 527.50	25 000.00	Lindsay Tooley	Cash received by Shaw in Sydney for Nugan Hand Group and ICD with NHB increased (76-11-3042-A)	4644/14
5.10.77	(88 112.00)	(80 000.00)	Ron B. Manners	Deposit to NHHK by Santana Ltd (client number 77-60420-C) matched by back-to-back loan paid by Yorkville Nominees P/L to Mamkal P/L via Sly & Russell	5983/25-6, 30-31,33, 37
18.10.77	1 126.00	1 000.00	Andrew Wong	Cash cheque from NHB given to Wong - Nugan Hand Group reimbursed in Australia	7797/180
12.77 to 4.80	66 000.00 (approx.)	60 000.00 (approx)	Grace Wee	Regular cash payments by Nugan Hand in Singapore to Wee for interest earned on her deposit with Nugan Hand Ltd in Australia	5993 6984/153 7823/56-9 8682/21-22 5207/24,73 4247/32-4 4947/28, 22-26
10.12.77	10 198.38	9 000.00	Reterden Ltd.	Interest owing by NHL paid by NHB and not reimbursed by NHL	3900/28-9
22.12.77	(9 500.00)	8 344.00	Stephanie De Charmoy	ICD with NHHK paid out in Australia in cash by Nugan Hand Group	7852/141 -155 10310

034

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
29.12.77	57 785.38	50 818.00	Francois Gœlo	T/T to Geneva by NHB - cash collected in Australia and placed into safe at premises of Nugan Hand Ltd.	10166 10211
30.12.77	29 650.91	26 075.00	Reterden Ltd.	Interest paid by NHB on NHL loan not reimbursed by NHL to NHB	7801/43
3. 1.78	58 043.15	50 715.00	Francois Gœlo	T/T to Paris by NHB - cash collected in Australia and placed in safe at Nugan Hand Ltd.'s premises.	10166 10211
1. 3.78	4 560.00	4 000.00	Barry Chittem	Payment in Singapore by NHB and reduction of Yorkville Nominees P/L deposit in Australia	4644/12
10. 4.78	88 112.00	80 000.00	Ron B. Manners	Back to back loan from Yorkville Nominees P/L to Mamkal P/L repaid making funds on ICD with NHHK for Santana Ltd available to Manners	5983/29
28. 5.78	212 800.00	190 000.00	Dr Thomas Charles Wall	Credit given by NHB for ICD with client number 78-05-3217-A - Money collected by Nugan Hand Group in Australia	10093
22. 6.78	15 900.00	13 886.00	Lake Jay Wood	NHB T/T to India offset against deposit with Nugan Hand Inc. Panama raised in 1975 with money lodged to Nugan Hand Group in Australia	9616/10-11
7. 7.78	400 000.00	347 917.00	Joseph Wagstaff	Credit given by NHB for ICD with client number 78-06-3170-A due to money collected in Australia by the Nugan Hand Group	4494/44
11.10.78	31 382.00	27 000.00	Douglas S. Whitlock	Cheque banked to Mars Rd Investments P/L in Australia and ICD issued by NHB (client number 78-10-3246-M)	5166 6079/15

035

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
16.10.78	39 202.32	(33 589.52)	Brian Guest	Mars Rd Investments P/L purchased 13 000 shares in Preba P/L for $26 000 as a partial return of Guests' share of an investment with NHB by Accra Engineering & Technical Services (client number 78-08-3184-H)	5362/34 5363/41 5478/46,53 5473 8412/49 7184/40
18.10.78	938.00	800.00	Christopher T. O'Neil	NHB provided an International Certificate of deposit (78-10-3247-A) for money collected by Shaw in Sydney. O'Neil admitted depositing various sums in Sydney to Nugan Hand Group	8892/134 4410/2
18.10.78	97 710.00	83 300.00	Ron B. Manners	T/T to Mars Rd Investments P/L and ICD for Daimarco Ltd raised by NHB (client number 78-10-3195-A)	5983/2,7
21.10.78	5 000.00	4 255.00	John Stephens	Received by Nugan Hand in Australia and credit given with NHB (client number 78-10-3248-A)	7823/240
23.10.78	2 800.00 2 240.00	2 500.00 2 000.00	Torgeir Berge/ Malcolm Burgess	Money on deposit with NHB transferred to a deposit account for Yorkville Nominees P/L (client number 78-06-3173-A) due to payment by Nugan Hand in Australia. Berge and Burgess deny knowledge of the transactions.	5362/36-7 8412/49
24.10.78	3 456.00	2 940.00	Christopher T. O'Neil	Increase in ICD with NHB - Shaw received A$3 000 (less 2% fee) in Australia. O'Neil admitted depositing various sums in Sydney	8892/135 4410/3 11430
27.10.78	14 203.00	(12 000.00)	Douglas S. G. Whitlock	ICD with NHB reduced by payment from Mars Rd Investments P/L in Australia	5473/82

036

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
31.10.78	(3 762.00)	(3 157.00)	Alan Rowlandson	ICD with NHB raised with money from UK. Yorkville contra entry is Nugan Hand charges extracted from the deposit	7184/25
6.11.78	960.00	833.00	Christopher T. O'Neil	Increase in ICD with NHB - Shaw received A$850 (less 2% fee) in Australia. O'Neil admitted depositing various sums in Sydney	4410/3,11 11430
12.11.78	400.00	317.00	Unidentified	Paid from NHB petty cash - Nugan Hand reimbursed in Australia	8439/315
12.11.78	46 000.00	40 000.00	Leonard J. Dalton	Deposit with NHL extinguished when ICD raised by NHB (client number 78-11-3407-My)	446 10439 7972 7823/277
17.11.78 1.12.78	38 577.40 60 606.06	33 654.00 53 402.00	Don Daisley	Deposits with NHHK transferred to a deposit account for Yorkville Nominees P/L (78-06-3173-A) with NHB to match payment by Nugan Hand in Australia. Daisley denies knowledge of this transaction.	5362/51 8412/49
20.11.78	6 336.00	5 560.00	Christopher T. O'Neil	Increase in ICD with NHB - Shaw received money in Australia. O'Neil admitted depositing various sums in Sydney	11430 8892/136 4410/3,7
28.11.78	672 144.68	590 827.38	C.F.D. Stark	NHB paid NHL loan not reimbursed by NHL until 12.12.78	8358/10 8350/26 7969/102 977/3-8
9 .1.79	22 700.00	20 000.00	Bocodo Enterprises	Cash received by Nugan Hand in Australia and ICD with NHB issued (client number 79-01-3420-A)	1894/6 8327/688

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037

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
16 1 79	2 280.00	2 000.00	Torgier Berge	Reduction of sum credited by T/T for fixed deposit with NHB due to payment by Nugan Hand in Australia Berge denies knowledge of this transaction	5362/88 8412/89
17 1 79	500.00	438.00	Stephen Bratone	Cash to Shaw in Sydney for ICD with NHB (client number 79 01 3426 A)	1950/8
23 1 79	21 144.58	18 507.00	Malcolm Burgess	Money on deposit with NHB for Burgess transferred to a deposit account with NHB for Yorkville Nominees P/L (78 06 3173 A) to match a payment by Nugan Hand in Australia	5362/41 8412/89
23 1 79	8 610.77	7 537.00	Kevin Watt/ Malcolm Illingworth	Money on deposit with NHB transferred from client account 78 11 3400 H to a deposit account for Yorkville Nominees P/L 78 06 3173 A due to payment by Nugan Hand in Australia Watt denied any knowledge of this transaction	5362/63 8412/89
27 2 79	2 827.00	2 500.00	P V Mackey/ Pierce Anthony	Deposit to Nugan Hand in Sydney by Buchanan Management P/L of fee for Nugan Hand Nominees Ltd in Hong Kong to set up a German Nominee Company	4459/23 25
12 3 79	48 000.00	43 000.00	Christopher Bryce Richardson	Cash and cheques deposited to Illarangi Investments P/L in Australia ICD issued by NHB (client number 79 03 3265 A)	10220
14 3 79	11 558.44	9 780.00	Unidentified (possibly John Aston or Kevin Murray)	Money on deposit with NHHK for Chrysalis Ltd transferred to a deposit account for Yorkville Nominees P/L with NHB to finance a T/T by NHB to Hawaii charged to Yorkville Contra account	5362/14 8412/89

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
21. 3.79	(67 296.00)	(60 000.00)	Lindsay Tooley	NHB transferred part of ICD for client number 77-11-3042-A to Yorkville Nominees P/L deposit account (78-3173-A) to match payment by Nugan Hand in Australia	7429/7 8414/89 5362/115
27. 3.79	57 962.00	51 613.85	Lawrence Royce Moore	Cheques banked to Mars Rd Investments P/L in Australia and ICD issued by NHB (client number 79-03-3173-M)	5473 8412/359 -360
28. 3.79	2 200.00	2 000.00	Haakon Heggelunde	Reduction of amount of T/T to NHB in fixed deposit account due to payment by Nugan Hand in Australia. Heggelunde denies knowledge of this transaction	8412/89 5362/120 4572/6
4. 4.79	38 850.00	35 000.00	Alan Jones	Money collected in Australia for NHB and ICD issued (client number 79-04-3484-A)	4494/6
12. 4.79	3 000.00	2 632.00	Unidentified (Philippines resident)	Money collected in Sydney by Shaw for Nugan Hand and ICD issued by NHB (client number 79-04-3280-A)	4579/4-12 8892/105
12. 4.79	279 464.69	250 000.00	Mr Asia Syndicate	Cash collected by Shaw in Sydney from J. Aston - cheques totalling A$250 000 paid by Dong Xaoi Ltd after transfer of funds from NHB	7140/3-5
19. 4.79	4 600.00	4 140.00	Unidentified	Cash received in Sydney by Nugan Hand - ICD raised with NHB (client number 79-04-3258-A)	7823/243
8. 5.79	119 515.56	108 426.76	Dr Thomas Charles Wall	Credit with NHB increased by money received by Nugan Hand in Australia	10093/9
15. 5.79 19. 4.79	220.00 4 600.00	200.00 4 200.00	Unidentified Israeli National (residing in South Africa)	Cash received in Sydney by Nugan Hand and ICD issued by NHB (client number 79-04-3258-A)	4566/2-15

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039

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
25. 5.79 7. 6.79	36 205.00 8 300.00	32 672.11 7 500.00	Ronald L. Donegan	Cheques from Hill Rogers & Assoc deposited to Mars Rd Investments P/L and ICD issued by NHB (client number 79-03-3271-A)	5475/22-3 8892/110 -111 8412/164
25. 5.79 5. 7.79	37 675.00 56 300.00	34 000.00 50 000.00	Alfred Roy Oslington	Cheques deposited to Mars Rd Investments P/L to increase ICD with NHB (client number 78-09-3185-A) and enable US$20 000 payment by NHB	5475/22,27 5470/44-5 8412/97 8892/127 -131
7. 6.79	(5 506.00)	(4 968.70)	Eddie Achterberg	Balance of bank account of Lo Fat Investments Ltd in HK transferred to NHB - Achterberg received cash in Australia	5478/59-61 5362/130 8412/89
11. 6.79	(2 500.00)	(2 200.00)	Douglas S. G. Whitlock	ICD with NHB reduced by cash payment from safe in Sydney	6079/14 4572/5 8412/89 5362/141
25. 6.79	5 500.00	5 000.00	Jennifer Krans	Galicek received A$4 000 cash and A$1 000 cash cheque in Australia. NHB issued an International Certificate of deposit (79-06-3299-A)	
1. 7.79	9 350.00	8 500.00	S.B. Baughurst	Money handed to Houghton for Nugan Hand Group and ICD issued by NHB with client number 79-04-3568-ME	7949/8 3038 8882/42-9
3. 7.79	(112 550.00)	(100 000.00)	Tour World International	Reduction of ICD with NHB due to payment by NHL to Derwent Management and Productions in Australia	4409/55,19

040

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
11. 7.79	2 500.00	2 220.00	Douglas S. G. Whitlock	Interest on deposit with NHB taken up by NHB as a deposit for Yorkville Nominees due to payment of this interest by Nugan Hand in Australia	5362/147 8412/88
13. 7.79	11 750.00	10 417.00	Marlow Enterprises Ltd.	ICD with NHB taken up instead of repayment of loan to NHL with RBA approval (account 77-3093-H)	6556/36
25. 7.79	2 785.73	2 445.00	Robert Schmidt	Interest on reimbursement by Schmidt of loan from Daisley transferred to Yorkville Nominees P/L (account 3173-A). Daisley denies knowledge of this transaction	5363/41 8412/89
27. 7.79	6 000.00	5 276.00	R. & Barbara Brutter	Cash received in Sydney by Nugan Hand - ICD raised with NHB (client number 79-07-3306-A)	8412/198
31. 7.79	23 785.00	21 000.00	Alfred Roy Oslington	Cheque deposited to Mars Rd Investments P/L enabling payment by NHB	5473
3. 8.79	56 630.00	50 000.00	Chi Wei/Sup Pin Chen	Deposited to Mars Road Investments P/L in Sydney and possibly paid out by NHB in Singapore	5166 8892/210
3. 8.79	16 750.00	14 790.00	Lawrence Royce Moore	ICD with NHB increased by cheque deposited to Mars Rd Investments P/L	5475/31 8412/359- -360
6. 8.79	(2 825.00)	(2 500.00)	Grace Wee	Interest on ICD with NHB paid to Wee in Sydney by Nugan Hand	7823/61,63, 57
7. 8.79	101 270.00	89 500.00	Alfred Roy Oslington	Deposit to Mars Rd Investments P/L for increase of ICD with NHB	5473 5470/27 8412/97 8892/127 -131

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041

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
15. 8.79	1 127.29	1 000.00	Alex Lee	NHB issued ICD for services performed by Lee in Australia to Nugan Hand (client number 79-08-3312-A)	8412/204
15. 9.79	1 122.60	1 000.00			
15.10.79	1 109.67	1 000.00			
15.11.79	1 085.80	1 000.00			
15.11.79	2 500.00	2 294.00			
15.12.79	2 129.66	1 920.00			
1. 1.80	5 524.50	5 000.00			
15. 1.80	2 149.63	1 920.00			
15. 8.79	1 100.00	1 000.00	Quentin George	NHB issued ICD for services rendered by George in Australia to Nugan Hand (client number 79-08-3313-A)	8412/205
15. 9.79	1 100.00	1 000.00			
15.10.79	1 100.00	1 000.00			
15.11.79	1 100.00	1 000.00			
15.12.79	1 100.00	1 000.00			
15. 1.80	1 100.00	1 000.00			
15. 8.79	1 375.00	1 250.00	Edward Harland	NHB issued ICD for services rendered by Harland in Australia to Nugan Hand (client number 79-08-3314-A)	8412/206
15. 9.79	1 375.00	1 250.00			
15.10.79	1 375.00	1 250.00			
15.11.79	1 375.00	1 250.00			
15.12.79	1 375.00	1 250.00			
15. 1.80	1 375.00	1 250.00			
30. 8.79	2 500.00	2 117.00	Unidentified	Money received by Nugan Hand in Australia - ICD raised with NHB (client number 79-08-3321-M)	8412/212
1. 9.79	5 000.00	4 420.00	Douglas S. G. Whitlock	Cash received from Whitlock in Australia and ICD with NHB increased	8381/265 8412/143 7823/238
7. 9.79	1 130.00	(1 000.00)	Victor Fischer	ICD with NHB (account 79-08-3713-H) reduced by cash payments from the safe in Sydney	8414/16 5478/20
11. 9.79	1 130.00	(1 000.00)			
5.10.79	1 130.00	(1 000.00)			
24.10.79	1 100.00	(1 000.00)			

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042

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
13. 9.79	2 668 287.67 (HK$)	?	Chase Manhattan	NHB reimbursed NHHK for advance to NHL using Chase Manhattan name for RBA approval not reimbursed by NHL until 29.11.79	9591/77 9308/28
17. 9.79	(112 000.00)	(100 000.00)	Tour World International	Reduction of ICD with NHB for Tour World due to payment in Australia by NHL	4409/19,55
20. 9.79	(1 100.00)	(1 000.00)	Dr Neil Scrimgeour	ICD with NHB reduced by payment by Nugan Hand in Australia	8414/14
25. 9.79	26 929.00	23 875.00	Anthony David Vine	Cheque banked to Mars Rd Investments P/L in Australia and ICD provided by NHB after 2% fee deducted. (Client Number 79-08-3714-RE)	8381/250 5475/38
25. 9.79	(337 650.00)	(300 000.00)	D.J. Moore/ R.J. Crawford	Reduction of Tour World ICD with NHB due to payment in Australia by NHL via NHIH	4409/19,55
10.10.79	10 100.00	(9 000.00)	Brian Cutler of Leopold Minerals fame?	T/T by Mars Rd in Australia after deposit to NHB	
16.10.79	2 000.00	1 790.00	Mr Asia Syndicate	Nugan Hand in Singapore paid 'Mr Custance' with passport number of Cheryl Anne Walsh (alias for Muhary)	1950/19 8618/9-10 10217
18.10.79	(5 500.00)	(4 946.00)	Jennifer Krans	ICD with NHB paid out by Shaw in Australia	8892/147-8
23.10.79	55 000.00	50 000.00	Grace Wee	Received in Australia by Nugan Hand and credit given with NHB (client number 77-07-3121-A)	8412/60
23.10.79	55 515.00	50 000.00	Ella Muriel Chung	ICD raised with NHB for money received in Australia by Shaw for Nugan Hand. Chung was to receive interest payments by Yorkville contra in Australia.	8892/103-5

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
25.10.79	(110 450.00)	(100 000.00)	D.J. Moore/ R.J. Crawford	Reduction of Tour World ICD with NHB due to payment in Australia by NHL via NHIH	4409/19,55
25.10.79	2 214.00	2 000.00	John Westbury	NHB paid Westbury - Mars Rd Investments P/L received T/T in Australia to cover	5473
31.10.79	21 650.65	18 000.00	John Aston/ Kevin Murray	Deposit in HK to NHB by Chrysalis credited to deposit account for Yorkville Nominees P/L with NHB due to a payment by NHB to Hawaii for Aston/Murray being posted to 'Yorkville contra' account	5363/42 8412/88
7.11.79	(8 495.00)	(7 740.00)	Brian Cutler	T/T by Mars Rd after funds received by NHB	
8.11.79	19 810.00	17 730.72	Ronald L. Donegan	Cheque from Hill Rogers & Assoc deposited to Mars Rd Investments P/L and ICD with NHB increased (after 2% fee deducted)	5475/44 8892/117
22.11.79	(6 000.00)	(5 482.46)	Christopher Bryce Richardson	Cash cheque obtained from Edelsten drawn on Nugan Hand Ltd in Australia - ICD with NHB reduced	10220
29.11.79	3 029.28	2 779.16	Stuart Gillett	ICD with NHB increased by receipt to Nugan Hand in Australia (client number 79-06-3645-A)	8412/444
29.11.79	(532 780.00)	(485 935.57)	Chase Manhattan	NHL reimbursement to NHB for NHB having repaid NHHK advance to NHL in name of Chase Manhattan for RBA approval	4088/905 3735, 3816 3760
11.79	3 287.40	3 000.00	S.B. Baughurst	NHB increased savings account for client 3568-ME due to money lodged to Nugan Hand Group in Australia	3038 8882/42-9

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044

DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
13.12.79	16 611.00	15 000.00	P.J. Breene	Deposit to Mars Rd Investments P/L and ICD with NHB issued (client number 79-12-3317-A)	8412/245 5475/50
13.12.79	(500.00)	(452.00)	S. Bratone	Cash obtained from Shaw in Sydney and ICD with NHB reduced (79-06-7012-ME)	1950
19.12.79	10 000.00	9 006.00	Grace Wee	A. Wong received advance in HK from NHB for G. Wee on 27 November 1979 - Wong deposited cash to Mars Rd Investments P/L to compensate	10284/7 8431/4-6 5475/52 8439/220
15. 1.80	(132 000.00)	(120 000.00)	Tour World International	Reduction of ICD with NHB due to payment by NHL in Australia to Derwent Management and Promotions Pty Ltd	4409/19,55
22. 1.80	88 000.00	80 000.00	S.B. Baughurst	Money to Yorkville Nominees Pty Ltd in Australia - ICD issued by NHB to client 3568-ME	3038 8882/42-9
31. 1.80	26 400.00	24 000.00	T. Coon	Cash to Houghton for Nugan Hand Group in Australia for NHB to provide ICD with client number 7082-ME	3014 7949/17 3038
14. 2.80	(3 000.00)	(2 705.00)	M.P. Fabia	Advance paid in Sydney on interest due on ICD with NHB (client number 77-3044-SA)	8302/77-9
5. 3.80	2 260.00	2 000.00	Dr Thomas Charles Wall	Payment by Nugan Hand in Sydney reducing ICD with NHB (client number 78-05-3127-A)	8412/127
12. 3.80	26 200.00	23 800.00	Ayala Finance (HK) Ltd	NHB paid interest on loan to NHL with RBA approval not reimbursed by NHL	8434/3
11. 3.80	9 194.00	8 384.00	Mr Asia Syndicate	Edelsten requested NHB to T/T money to Hawaii for J. Shepherd	6702/34

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DATE	US $	A $	CLIENT	NOTES	COMMISSION DOCUMENT REFERENCE
17. 3.80	22 00.00	20 000.00	Angelo Borg	Cash received by Edelsten for Nugan Hand in Sydney - cheque issued by NHB to Hexagon Trust (US$20 245) rest left on deposit with NHB. NHB cheque not met on presentation to the bank	1851/3-4 6818/9-10 8354 7956/50 11447
TOTAL		A$5 409 497,64			

Abbreviations

NHB - The Nugan Hand Bank

NHL - Nugan Hand Ltd

RBA - Reserve Bank of Australia

ICD - International Certificate of Deposit

P/L - Pty Limited

HK - Hong Kong

NHHK - Nugan Hand (Hong Kong) Ltd

Mars Rd - Mars Road Investments Pty Ltd

SCHEDULE G

DETAILS OF INVIDUAL TRANSACTIONS

8G.1 Transactions for which no Reserve Bank Approval was Obtained - Typical Yorkville Contras

It should be noted that references to the Nugan Hand Bank in the following material are references in the main to transactions occurring at the head office in Hong Kong and, on occasion, at the accounting centre in Singapore. Although the Nugan Hand Bank was incorporated in the Cayman Islands, West Indies, it operated out of each of the Nugan Hand Group's overseas offices, notably Hong Kong and Singapore.

8G.1.1 Example No. 1 - Pamela Kibby (Lady Myer)

In this example cash was received and placed in Nugan Hand Ltd's safe in Sydney and, by means of a Yorkville contra, a Nugan Hand Bank International Certificate of Deposit was issued. On the client's instructions the money was later transferred by the Nugan Hand Bank to Hawaii.

In or about November 1977 Mr R.A. Pulger-Frame [profile 2.59] travelled to Australia and collected large sums of cash on behalf of the Nugan Hand Group. This money was placed in the safe at Nugan Hand Ltd's premises at 55 Macquarie Street, Sydney. He collected a total of A$350 000. One of the clients he received cash from was Mrs Pamela Kibby.[1] Mrs Kibby was introduced to Mr Pulger-Frame by a Queensland accountant, Mr Kedward Lancelot Patrick of Patrick Wan and Company in Brisbane. Mr Patrick was present when the A$100 000 in cash was handed to Mr Pulger-Frame in Melbourne. The Nugan Hand Group charged 6 per cent for this transaction and Mr Patrick took A$2 000 out of that commission.[2]

On 2 November 1977 Nugan Hand Bank issued Mrs Kibby with an International Certificate of Deposit for US$106 220. This deposit was set for a period

of one year with an interest rate of 8 and 3/4 per cent. Mrs Kibby was allocated Nugan Hand Bank client number 77-3134-A.[3] On 26 February 1979 the Nugan Hand Bank received correspondence from Mr Patrick which instructed that the principal plus accumulated interest for Mrs Kibby be transferred to a bank account at the First Hawaiian Bank, Hawaii. On 6 March 1979 US$118 967.65 was transferred by telegraphic transfer to Hawaii by Nugan Hand Bank on behalf of Mrs Kibby.[4]

Mrs Kibby did not give evidence to the Commission although she was interviewed by Commission investigators.[5] She said that the A$100 000 was an investment by her son, Mr Anthony Norman Myer who wrote a cheque on Myerton Investments Pty Ltd and gave it to Mr Patrick. Mr Patrick travelled to Melbourne and with Mrs Kibby banked this cheque to her bank account. Mrs Kibby drew cash against this cheque and handed it to Mr Pulger-Frame at her home in Toorak. No receipt for the money was handed to Mrs Kibby, however, an International Certificate of Deposit from Nugan Hand Bank was forwarded to Mr Anthony Myer by Mr Patrick on 8 February 1978. After the deposit with Nugan Hand Bank matured, Mr Patrick suggested that it be transferred to Mrs Kibby's Hawaiian bank account. Commission Investigators were told by Mr Patrick that it was later transferred to Mr Myer's bank account in Honolulu and brought back to Australia by him in 1982.[6] Mr Pulger-Frame told Commission Investigators[7] that Mr Patrick handed him the $100 000 in cash in Toorak, Melbourne and removed $6 000 for himself to leave $94 000 for the deposit with Nugan Hand. However, in an internal memorandum to Mr C.L. Collings [profile 2.15], Mr Pulger-Frame stated that Mr Patrick 'peeled-off 2 of the 6 per cent I charged, so he made $2 000 out of it'.[8] Mr Pulger-Frame took the cash to Sydney and handed it to Mr S.K. Hill [profile 2.33].

8G.1.2 Example No. 2 - George Shamoun

In this example cash was received at Nugan Hand Ltd's premises at 55 Macquarie Street, Sydney and placed in the safe. By means of a Yorkville contra the client obtained a demand draft from the Nugan Hand Bank overseas.

About September 1979 Mr George Shamoun handed to Mr G.T. Shaw [profile 2.65] A$50 000 in cash. Mr Shaw charged a 2 per cent fee for this Yorkville contra transaction and made A$49 000 available through Nugan Hand Bank.[9] Mr Shamoun travelled to Singapore on his way to Lebanon and on 17 September 1979 he received a demand draft from the Nugan Hand Bank made payable to him at the Credit Commercial de France (Moyen Orient) Sal Beirut Lebanon for US$55 027. This demand draft was drawn on the Inter-Alpha Asia (Singapore) Ltd Bank in Singapore. Nugan Hand Bank had a bank account with this Bank and reimbursed it for the demand draft.

Mr Shamoun was later charged with and acquitted of attempting to import prohibited imports (cannabis resin) and possession of prohibited imports. These charges related to the discovery of 22 pounds of hashish resin and oil in machinery imported from Lebanon. Amongst papers found at Mr Shamoun's flat upon his arrest in August 1980 were documents recording the following financial transactions:

a. 13 overseas drafts purchased from Australian Banks in various names.[10]

b. Credit advice slips from Banque Nasr Libano-Africaine S.A.L. in the name of George M. Shamoun.[11]

The credit advice slips (b) above aligned closely with the overseas drafts (a). They totalled almost A$16 000. There was another credit advice slip for the demand draft obtained from Nugan Hand Bank banked to the same account.[12] Mr Shamoun admitted to Commission Investigators that he had previously lied to Australian law enforcement authorities about the nature of the Nugan Hand Bank transaction.[13] Mr Shaw stated in his evidence to the Commission that he felt compelled to support Mr Shamoun's lies about the transaction since Mr Shamoun had lost some money in the collapse of Nugan Hand Bank.[14]

8G.1.3 Example No. 3 - Madam Chew Hong Kiat (Grace Wee)

In this example cash was paid by the Nugan Hand Bank in Hong Kong to a client and the corresponding deposit in Australia was made by way of cash

to Mars Road Investments Pty Ltd [profile 2.88] (hereafter known as 'Mars Road Investments'). It was slightly different to the other Yorkville contra transactions to the extent that the Nugan Hand Group was paid after effecting the payment on the client's behalf. This facility was probably available because one of the parties concerned, Madam Chew Hong Kiat (also known as Mrs Grace Wee), had substantial deposits with the Nugan Hand Group that could be used as 'security'.

On 18 December 1979 Mr Andrew Wong [profile 2.74] deposited A$45 350 in cash with Mars Road Investments in Sydney.[15] Of this amount, US$100 000 was deposited in the name Grace Wee and HK$200 000 was deposited in the name H.S. Wong. On the same day Mr Shaw advised Nugan Hand Bank in Hong Kong that this money had been received in Australia for these two persons and confirmed prior instructions which had authorised the payment of the US$10 000 and the HK$200 000 by the Nugan Hand Bank to Mr Andrew Wong while he was in Hong Kong prior to this deposit of cash in Australia.[16]

8G.1.4 Example No. 4 - Christopher Bryce Richardson

In this example cash and cheques were received by way of a deposit from a client by Nugan Hand Ltd in Sydney, and, by means of a Yorkville contra an International Certificate of Deposit was issued by Nugan Hand Bank overseas. The client, Mr Christopher Bryce Richardson made some withdrawals against this deposit and lost the balance in the collapse of the Nugan Hand Group.

On 12 March 1979 Mr Richardson went to Nugan Hand Ltd's premises in Sydney and handed to Mr G.V. Galicek [profile 2.22] a cheque drawn on his company, Importex Customs Agency for A$42 656.39. Mr Richardson told Commission investigators [17] that this money was the proceeds of the sale of a property he owned at Ku-ring-gai. He also gave Mr Galicek a personal cheque for A$103.61 and cash of A$240. This made up a total of A$43 000 which upon conversion became US$48 000. Mr Richardson received an International Certificate of Deposit from the Nugan Hand Bank in exchange for this money. The two cheques were deposited to Illarangi

Investments Pty Ltd [profile 2.85] (hereafter referred to as 'Illarangi Investments') on 29 June 1979.[18] Mr Richardson earned interest on his investment with Nugan Hand Bank from 21 March 1979. It is not known why it took so long to deposit the cheques in Australia.

On 12 August 1979 a bank draft for US$18 000 was drawn by Nugan Hand Bank and paid to Mr Richardson. He banked that to his bank account in Australia. On 22 November 1979 he withdrew a further US$6 000 by way of bank draft from Nugan Hand Bank.[19] This was also deposited to his bank account in Australia. The rest of the deposit plus accumulated interest was lost in the collapse of the Nugan Hand Bank.[20]

8G.1.5 Example No. 5 - Geoffrey L. Horton

In this example a cheque was deposited with Nugan Hand Ltd in Sydney, and by means of a Yorkville contra the client was paid by telegraphic transfer by Nugan Hand Bank overseas.

Mr Geoffrey L. Horton made a deposit with Nugan Hand Ltd in Sydney. On 7 March 1979 he was paid US$20 200 by the Nugan Hand Bank.[21] This payment by Nugan Hand Bank was an advance against his deposit with Nugan Hand Ltd in Sydney. Subsequently a cheque was drawn on Nugan Hand Ltd and paid to Mr Horton in Australia for A$21 426. Mr Horton then reimbursed this money by way of an identical cheque on 20 April 1979 which was banked to Mars Road Investments.[22]

8G.1.6 Example No. 6 - Ronald Cheung

This example shows a Yorkville contra transaction where a cheque was deposited with Mars Road Investments in Sydney and a payment was made by cheque or by cash by the Nugan Hand Bank in Hong Kong. Mr Ronald Cheung handed cheques to Mr J. McArthur [profile 2.46] in Hong Kong who sent those cheques to Mr Shaw in Australia. The cheques were drawn on the Rural Bank at Brookvale, New South Wales. Mr Shaw was instructed to cash those cheques and advise the Hong Kong office immediately they were cleared so that the equivalent could be paid to Mr Cheung in Hong Kong.

Mr Shaw banked four cheques to Mars Road Investments for Mr Cheung. The first was on 10 January 1979 for $10 000,[23] the second was on 14 February 1979 for $5 000,[24] the third was 9 April 1979 for $5 000,[25] and the fourth was on 23 October 1979 for $5 000.[26] A further cheque for $5 000 was sent by Mr McArthur on 27 April 1979, the ultimate destination of which could not be traced.[27] Mr Cheung was paid the equivalent by Nugan Hand Bank in Hong Kong.

8G.1.7 Example No. 7 - Bruce K. Godfrey

In this example money was collected in Australia by two Nugan Hand Group companies, Yorkville Nominees Pty Ltd [profile 2.108] (hereafter known as 'Yorkville Nominees') and Nugan Hand Trade Services Pty Ltd [profile 2.98] (hereafter known as 'Nugan Hand Trade Services') and a taxation scheme was then implemented. By means of a Yorkville contra, the equivalent money was made available through the Nugan Hand Bank and transferred by the Bank by telegraphic transfer from Hong Kong to Switzerland.

Mr Bruce K. Godfrey operated a company in South Australia in the name of Godfrey Office Equipment Pty Ltd. This company paid A$11 000 to Yorkville Nominees on 5 April 1978 and subsequently made eleven payments to Nugan Hand Trade Services of A$8 983.33 each. The total money received by these two companies in Australia by Nugan Hand was A$109 816.63. Nugan Hand Bank in Hong Kong paid by telegraphic transfer one amount of A$29 600.66 on 20 April 1978 and from July 1978 to October 1979 eight payments of A$7 007. This totalled A$85 656 paid by Nugan Hand Bank. The difference between the money raised in Australia and that paid out by Nugan Hand Bank was A$24 161 which was 22 per cent of the money raised in Australia. This 22 per cent represented a fee for the taxation scheme. This scheme essentially involved bogus invoices from Yorkville Nominees and Nugan Hand Trade Services being raised charging Godfrey Office Equipment Pty Ltd for various services.[28] Godfrey Office Equipment Pty Ltd treated the payments on those invoices as expenses in their taxation returns and received a tax deduction for them. However, 78 per cent of the payments to Yorkville Nominees were

given back to the client by Nugan Hand Bank overseas. The first repayment was made by the Nugan Hand Bank on 20 April 1978 in the amount of A$29 600.99 to the account of Mr B. Godfrey at the Swiss Credit Bank, Zurich. The subsequent regular instalments of A$7 007 were made to the same bank in Switzerland to an account in the name of Egilo Establishment.[29]

Mr Godfrey denied to Commission Investigators that these transactions were a taxation scheme and claimed the payments were incurred in the course of furniture sales. However, the Commission's inquiries found no evidence of any significant sales assistance by the Nugan Hand Group companies. Godfrey denied any knowledge of the Swiss bank accounts as well as the name of Egilo Establishment.[30]

8G.1.8 Example No. 8 - Gloria Siu and William Siu

In this example, money was deposited with Yorkville Nominees by Mrs Gloria Siu and Mr William Siu and, by means of a Yorkville contra, they were placed in the position of being able to draw on Nugan Hand Bank for the funds. Their investment with Yorkville Nominees was in the form of A$10 000 cash deposited on 15 August 1977. A Yorkville contra was arranged and the clients were allocated Nugan Hand Bank client number 78-05-3220-A.[31]

8G.1.9 Example No. 9 - Dwayne McHolick

In this example money was deposited with Yorkville Nominees and, by means of a Yorkville contra, the equivalent amount of money was transferred to Oregon by the Nugan Hand Bank.

Mr Dwayne McHolick was a director of David Jones Ltd in Sydney who deposited A$31 000 over a period of time with Yorkville Nominees. This amount was subsequently paid with interest by the Nugan Hand Bank by telegraphic transfer to Oregon, in the United States, by one payment of US$23 840.46 on 26 October 1977 and by a second payment of US$11 730 on 9 October 1978. The first of these two payments by Nugan Hand Bank

represented a payout of an accumulation of deposits in Australia with Yorkville Nominees in the name of David McCullaugh. These were:[32]

23 July 1976	$1 500.00
3 August 1976	$1 500.00
10 August 1976	$4 500.00
8 December 1976	$4 500.00
13 January 1977	$1 500.00
10 October 1977	$6 500.00
	$20 000.00
add interest earned	$ 1 286.13
	A$21 286.13
converts to	US$25 570.46

The second Yorkville contra transaction was a payout of accumulated deposits as follows:[33]

1 November 1977	$4 500.00
23 November 1977	$3 000.00
29 March 1978	$3 500.00
	A$11,000.00
converts to	US$11,730.00

These three latter deposits with Yorkville Nominees in Australia were held in various names, one being Dwayne McHolick, another being D. McH, and a third being D. McLeod.[34]

8G.1.10 Example No. 10 - Murray Stewart Riley

In this example, cash was received in Hong Kong and deposited to Nugan Hand Bank and the equivalent amount of cash was paid out in Australia.

On 19 October 1977 Nugan Hand Bank received HK$88 000 in cash. This was deposited to the Wing On Bank, Hong Kong dollar account. The notation

against the entry was Yorkville contra 'Yogi Bear'. Mr Hill advised Commission officers in an interview that 'Yogi Bear' was a reference to Mr Murray Stewart Riley but he subsequently denied knowledge of this in evidence before the Commission.[35] Mr Riley collected the equivalent of this money in Australia in cash out of the safe in Sydney.[36] In an interview with Commission investigators Mr Riley denied that this transation was conducted on his behalf. He also denied any knowledge of the code name 'Yogi Bear'.[37]

8G.1.11 Example No. 11 - Trevor H. Plant

In this example cash was deposited with the Nugan Hand Bank in Hong Kong and by means of a Yorkville contra a cheque was paid out by Yorkville Nominees in Australia for the equivalent amount.

On 8 June 1978 Mr Trevor H. Plant handed to the Hong Kong office traveller's cheques and cash amounting to US$1 579.53. This converted to A$1 390. A cheque was drawn on Yorkville Nominees for A$1 390 on 9 June 1978 to be deposited to Indac Pty Ltd at Turramurra for Mr Plant.[38]

8G.1.12 Example No. 12 - Stuart Gillett

In this example a cheque was deposited to Nugan Hand Bank in Hong Kong and cash was paid out in Australia from the safe at the offices of Nugan Hand Ltd at 55 Macquarie Street Sydney.

On 13 November 1978 a cheque for HK$100 000 was deposited to Nugan Hand Bank in Hong Kong. This cheque was drawn by Speaktrust Ltd and bore the signature of Mr Stuart Gillett.[39] Mr Gillett received HK$3 000 from the petty cash tin in Hong Kong[40] and the residue of HK$97 000 was paid to Mr Gillett in Sydney.[41] Mr Shaw recalled paying A$20 000 in cash to Mr Gillett from funds held in the safe.[42] Mr Gillett told Commission investigators that this transaction was carried out on behalf of his cousin.[43]

8G.1.13 Example No. 13 - Dr Chi Wei

This is an example of a Yorkville contra transaction where a cheque was paid into Nugan Hand Bank in Singapore and a cheque was paid out by Yorkville Nominees in Australia for the equivalent amount.

On 7 April 1977 Dr Chi Wei Chen deposited a cheque for the equivalent of A$50 000 in favour of the Nugan Hand Bank in Singapore. His cheque was drawn on the Bank of America, Hong Kong for US$56 500. He was allocated client number 77-3100-H and the money was placed on deposit with Nugan Hand Bank for one year at 10 per cent interest. However the deposit was withdrawn on 25 November 1977. On 15 November 1977 Yorkville Nominees drew a cheque for A$50 000 payable to Dr Chen in Australia. Dr Chen told Commission investigators that the transaction was meant to transfer assets from Singapore to Australia and did not represent the proceeds of any illegal activity.[44]

8G.1.14 Example No. 14 - Brian Frederick Honey

Mr Brian Honey was an Australian national who worked in Thailand. The Nugan Hand Bank records disclosed the existence of an International Certificate of Deposit number 78043214T. By 1 July 1979 the balance held on deposit against client number 3214 which was the client number of Mr Honey, in respect of this International Certificate of Deposit was US$17 208.50. By means of a Yorkville contra the equivalent of this in Australian dollars was made available to Mr Honey as a deposit with Nugan Hand Ltd in Australia.[45] Mr Honey drew upon this deposit in Australia on 20 September 1979 when $17 800 was paid to a firm of solicitors on his behalf.[46]

8G.1.15 Example No. 15 - Jeremy MacKenzie Gilder

In this example a cheque was paid into the Nugan Hand Bank by means of a Yorkville contra and an equivalent amount of money was made available in Australia. In order to avoid taxation the money was repaid in Australia purportedly as a loan.

On 15 January 1980 Mr J.G. Gilder [profile 2.25] deposited a cash cheque for S$110 149 to the Nugan Hand Bank in Singapore. This was converted to US$50 375.05 when deposited to the Nugan Hand Bank. Mr Gilder's commission as payment for his services to the Nugan Hand Bank was paid to the same account. A cheque for A$50 000 was subsequently paid to Bruttron Pty Ltd by Mars Road Investments on behalf of Mr Gilder on 15 January 1980.[47] Bruttron Pty Ltd was a company owned and controlled by Mr Gilder in Australia. The transaction in Mars Road Investments records was described as a loan[48] and a deed of termination and release was used so that there would be no liability to repay the loan.

8G.1.16 Example No. 16 - Edward Achterberg

In this example money was transferred to Nugan Hand Bank in Hong Kong and by means of a Yorkville contra, an equivalent amount of cash was paid out in Australia. The Nugan Hand Group managed a nominee company in Hong Kong for Mr Edward Achterberg called Lo Fat Investments. This nominee company had accumulated HK$29 230.90. This money was transferred from the bank account of Lo Fat Investments to Nugan Hand Bank on or about 7 June 1979 and Mr Shaw later paid A$4 968.70 in cash to Mr Achterberg in Sydney.[49]

8G.1.17 Example No. 17 - Brian Gordon Eyre

In this example money accumulated for a Nugan Hand client overseas was transferred to the Nugan Hand Bank and, by means of a Yorkville contra, that money was made available in Australia and used for the implementation of a tax scheme.

Mr Brian Gordon Eyre was a business partner of Mr Donald Daisley who controlled a Hong Kong company called Wilkinson (Holdings) Ltd.[50] On 27 January 1976 a cheque for US$10 558 from K.C. Yung was paid to Nugan Hand Inc. Panama at the Union Bank of Switzerland in Zurich on behalf of Wilkinson (Holdings) Ltd. This deposit with Nugan Hand Inc. Panama matured on 27 April 1976 and together with interest amounted to US$10 766.27.[51] Further interest accrued and a total amount of

US$11 287.83 was transferred and invested with Nugan Hand Bank for one year under the client number 76-3063-A. Mr Eyre also had money on deposit with Nugan Hand Bank under client number 77-3108-A. On 20 May 1977, before the term of the first loan had expired, a total of US$20 989.84 from these two accounts with Nugan Hand Bank was converted to A$18 972.55 and after a 5 per cent fee of A$948.62 was deducted, Mr Eyre received A$18 023.93 in Australia from Yorkville Nominees purportedly as a loan.[52] The purported loan was paid to a firm of solicitors on behalf of Mr Eyre and used to purchase land at Port Macquarie.[52]

Documents were prepared and signed by Yorkville Nominees and Mr Eyre to create the false impression that a sum of A$18 023.93 had been advanced as mortgage finance by Yorkville Nominees. A deed of termination and release between the two parties was also prepared so that Mr Eyre did not have any liability to repay the loan. However Mr Eyre did decide to repay the loan on 4 May 1978 by depositing A$20 186.80 with Yorkville Nominees. He received this money back in cash on the same day.[54]

8G.1.18 Example No. 18 - Brian Albert Guest

This example is similar to the previous one except that the tax scheme in Australia involved the purchase of shares by Mars Road Investments, in a company controlled and operated by Mr Brian Albert Guest.

A nominee company in Hong Kong called Accra Engineering and Technical Services Ltd had money on deposit with the Nugan Hand Bank under client number 78-08-3184-H. In October the balance of the money on deposit in this account was dispersed in three ways; US$15 000 was transferred to account number 78-10-3191-H for Mr John Leslie Hobbs with the Nugan Hand Bank in Hong Kong, and A$35 256 was credited to account 78-10-3192-H with Nugan Hand Bank in Hong Kong for Mr Andreas Hassler and the third payment was a Yorkville contra to Australia for A$33 589.52 for Mr Guest, who received A$26 000 in the form of a purchase of 13 000 shares by Mars Road Investments in a company operated and controlled by Mr Guest named Preba Pty Ltd.[55] When interviewed by Commission investigators, Mr Guest

denied that he received any more than A$26 000 plus a fee of 4 to 6 per cent from Accra Engineering and Technical Services Ltd.[56]

Mr Shaw told the Commission that the difference between the amount due to Mr Guest from Accra Engineering & Technical Services Ltd and the amount of the above purchase plus fees may have been placed on deposit with Yorkville Nominees or paid to Mr Guest in cash from the safe of Nugan Hand Ltd at 55 Macquarie Street Sydney. Mars Road Investments purchased these shares on 12 October 1978.[57] The difference between the sum due to Mr Guest from Nugan Hand Bank and the $26 000 paid to him by Mars Road Investments was 22 per cent which was, no doubt, the Nugan Hand Group's fee for the service and the tax scheme.

8G.1.19 Example No. 19 - Victor Fischer

Mr Victor Fischer, an American, had money on deposit with Nugan Hand Bank overseas and, by means of a Yorkville contra, drew upon an equivalent amount in Australia in cash. On several occasions while in Australia Mr Fischer withdrew A$1 000 which was paid to him in cash from the safe at 55 Macquarie Street, Sydney. His deposit with Nugan Hand Bank was reduced accordingly.[58]

8G.1.20 Example No. 20 - Douglas Gordon Whitlock

Mr Douglas Gordon Whitlock deposited A$27 000 with Mars Road Investments on 11 October 1978 through the Qantas Credit Union. By means of a Yorkville contra an equivalent amount of money was used to fund an International Certificate of Deposit.[59] On 27 October 1978 a cheque for A$12 000 payable to cash was drawn on Mars Road Investments and paid to Mr Whitlock. Mr Whitlock's International Certificate of Deposit with the Nugan Hand Bank was reduced accordingly.[60]

8G.1.21 Example No. 21 - Ron B. Manners

In this example money was placed on deposit with Nugan Hand Bank overseas, a Yorkville contra was then arranged, and the equivalent amount

of money was made available in Australia. A tax scheme was then provided to the client in Australia. In this particular case the tax scheme was a back to back loan. [For an explanation of back to back loans see 9.9 to 9.10]

Mr Ron B. Manners dealt with the Nugan Hand Bank and Nugan Hand (Hong Kong) Ltd [see Part 4 Section 1] (hereafter referred to as Nugan Hand (Hong Kong)) overseas through three nominee companies named Abbacus Ltd, Santana Ltd and Diamarco Ltd. On 5 October 1977 Mr Manners arranged for US$88 112 to be deposited with Nugan Hand (Hong Kong) for Santana Ltd using the client number 77-60420-C. This Yorkville contra was distinctive in that the deposit in Hong Kong was held as security for a back to back loan of A$80 000 from Yorkville Nominees in Australia. Yorkville Nominees paid the $80 000 to the trust account of Sly and Russell, solicitors, on behalf of Mankal Pty Ltd which was a company controlled and operated by Mr Manners in Australia.[61] Mankal Pty Ltd later repaid this loan to Yorkville Nominees and the money held on deposit with Nugan Hand (Hong Kong) for Santana Ltd was then released. In other words the first Yorkville contra was followed by a second Yorkville contra which was the reverse of the first transaction.

8G.1.22 Example No. 22 - Tour World International Pty Ltd

At the time of its involvement with the Nugan Hand Group, Tour World International Pty Ltd (hereafter referred to as 'Tour World') was a Melbourne based company operated by Mr David J. Moore, Mr Roderick J. Crawford and Mr Malcolm Sprague. By means of a Yorkville contra, a series of payments together totalling A$720 000 was then made to the company in Australia and Tour World's offshore funds were correspondingly reduced.[62] These payments disclosed an elaborate scheme to disguise income in order to avoid taxation which operated as follows:

a. On 25 July 1979 A$66 000 was paid by Nugan Hand Ltd to Nugan Hand International Holdings Pty Ltd and A$60 000 of that sum was then paid to Eagleview Finance Pty Ltd. On the preceding day, $40 000 (probably in cash) was used to purchase a bank cheque at the ANZ Bank, Haymarket payable to Eagleview Finance Pty Ltd.

The latter company combined the two sums and paid A$100 000 to Derwent Management and Promotions Pty Ltd.[63]

b. On 17 October 1979, Nugan Hand Ltd paid Tour World $100 000 but at the same time a round robin of cheques was used to offset this payment to Tour World in the accounts of Nugan Hand Ltd. Nugan Hand Ltd paid a cheque of A$100 000 to Nugan Hand International Holdings Pty Ltd which then paid that amount to Illarangi Investments which in turn paid that amount to Nugan Hand Ltd. The notation against the last stage of this round robin was 'contra against Tour World 17 September 1979'. The effect was that the so called advance from Illarangi Investments was offset against the payment to Tour World in the general ledger of Nugan Hand Ltd so extinguishing the two entries.[64]

c. On 25 September 1979, A$300 000 was paid by Nugan Hand Ltd to Nugan Hand International Holdings Pty Ltd and then paid to Messrs Moore and Crawford (two of the owners of Tour World) supposedly for shares in G.S.A. International, a company controlled by Messrs Moore and Crawford. This was intended to disguise the Tour World income as capital.[65]

d. On 29 October 1979, transaction (c) was repeated except that the amount involved was A$100 000 in two payments of A$50 000 each.[66]

e. On 15 January 1980 Nugan Hand Ltd paid A$120 000 to Derwent Management and Promotions Pty Ltd direct.[67]

8G.2 Yorkville Contras in which Nugan Hand Bank assumed the liability of Nugan Hand Ltd

8G.2.1 Example No. 1 - Container Care Ltd - Margarco

On 16 October 1975 Margarco sent a deposit of HK$500 000 to Nugan Hand Ltd in Sydney with Reserve Bank approval. The money was received in

Australia the following day as A$78 215.[68] Interest of A$3 735.50 was paid on this loan by Nugan Hand Ltd on 13 April 1976.[69] However, the money was not paid directly to Margarco; it was paid instead to Nugan Hand (Hong Kong). In addition to this interest payment, Nugan Hand Ltd paid HK$22 500 to Margarco on 16 April 1976 with Reserve Bank approval.[70] A year later, on 16 April 1977[71] the principal and interest, that is, HK$550 000, was paid to Margarco by the Nugan Hand Bank (not Nugan Hand Ltd). This payment was not approved by the Reserve Bank.

8G.2.2 Example No. 2 -Peggy Ann Boyd Pracey

On 3 December 1975 Nugan Hand Ltd in Sydney received a deposit of A$15 697.90 from Miss Peggy Ann Boyd Pracey in Hong Kong with Reserve Bank approval.[72] This was the equivalent of HK$100 000.[73] Interest earned on the loan by Miss Pracey was added to the loan and included as principal the following year and the loan with Nugan Hand Ltd was extended for a further year. Approval was obtained for this extension from the Reserve Bank.

Miss Pracey sought to withdraw her deposit early and on 11 January 1977 she received from Nugan Hand Bank half of the original principal invested, namely HK$50 000.[74] The remainder of the principal, together with interest earned, was repaid by Nugan Hand Bank to Miss Pracey on 19 April 1977. Thus a total of HK$112 280.90 was paid to Miss Pracey by Nugan Hand Bank.[75] The Reserve Bank was not advised that this loan had been repaid by the Nugan Hand Bank. In effect the Nugan Hand Bank had assumed Nugan Hand Ltd's liability to repay Miss Pracey.

When the loan was extended for a further term of 12 months Reserve Bank approval was obtained on 25 November 1976 subject to certain conditions.[76] One of these conditions was that the loan could not be wholly or partially repayable within six months. Nugan Hand Ltd thereafter continued to treat the loan in its books and records as though it were still outstanding even though it had been repaid to Miss Pracey in January and April 1977. On 15 December 1977 Nugan Hand Ltd sent

A$22 925.91 to Nugan Hand Bank (HK$119 902.50) which was the amount that would have been due to Miss Pracey had the loan continued for its full term, namely until 27 November 1977.[77]

8G.2.3 Example No. 3 - Marlow Enterprises Ltd

On 14 July 1977 Nugan Hand Bank received US$10 000 from Marlow Enterprises Ltd which on 25 July 1977 was paid by the Bank to Nugan Hand Ltd. Nugan Hand Ltd received the Australia dollar equivalent on 27 July 1977 as A$8 863.67.[78] No repayment of principal or interest was ever made by Nugan Hand Ltd.

At the end of the two year term of the loan, on 13 July 1979, the Nugan Hand Bank assumed Nugan Hand Ltd's liability in respect of this loan, in accordance with the client's wishes and issued an International Certificate of Deposit.[79] On 27 November 1979 approval was obtained from the Reserve Bank by Nugan Hand Ltd to pay US$11 750 to Marlow Enterprises Ltd. This purported to be the repayment of the principal plus interest on the loan to Marlow Enterprises Ltd. This request for approval was of course four months overdue but subsequently the money did not leave Australia and the money was never repaid. The Nugan Hand Bank treated the transaction in its records as though it were a Yorkville contra transaction.

8G.2.4 Example No. 4 - Shue Shau Min

On 20 May 1976 Shue Shau Min sent a deposit of US$100 000 direct to Nugan Hand Ltd. Nugan Hand Ltd received this money on 23 May 1976 as A$81 116.16. The deposit was for a term of six months. However it was never repaid by Nugan Hand Ltd. On 17 May 1977 Nugan Hand Bank paid Shue Shau Min US$110 250 representing principal and interest. This repayment was treated by Nugan Hand Bank as though it were a Yorkville contra. There was no Reserve Bank approval for this repayment by the Nugan Hand Bank.

8G.2.5 Example No. 5 - Madam Ha Niat Yin

On 13 July 1978 approval was obtained from the Reserve Bank for an inflow of A$200 000 from Madam Ha Niat Yin of Singapore to Nugan Hand Ltd in Sydney.[80] This money was received in Australia on the same day. Interest on the loan was added to the principal by Nugan Hand Ltd until 27 April 1979 when approval was sought for A$100 000 of this amount to be invested elsewhere in Australia outside the Nugan Hand Group. Subsequently, A$100 000 was paid to a firm of solicitors, D.H. Dwyer and Yeo in respect of a mortgage on some real estate.[81] The balance of the loan plus interest remained with Nugan Hand Ltd. On 24 December 1979 when A$50 000 was repaid to the client in Singapore.[82] Interest continued to be calculated by Nugan Hand Ltd on the balance of the loan.

On 25 March 1980 two amounts of money were paid by Nugan Hand Bank to Madam Ha Niat Yin and K.L. Lim. These amounts of money were US$53 945 and US$27 862.80 and totalled US$81 807.80. These two payments by Nugan Hand Bank were charged in the books and records of Nugan Hand Bank to Nugan Hand Ltd as though they were paid on behalf of Nugan Hand Ltd. The amount repaid approximately equalled the balance owed by Nugan Hand Ltd to Madam Ha Niat Yin.[83]

An approval was sought from the Reserve Bank for repayment of A$68 741 plus interest by Nugan Hand Ltd to Madam Ha Niat Yin. Approval was granted on 12 March 1980. In fact the money did not leave Australia. As explained above, Nugan Hand Ltd's liability to the client was replaced by a liability to the Nugan Hand Bank.

8G.2.6 Example No. 6 - Sun Hung Kai Finance Ltd

Sun Hung Kai Finance Ltd (hereafter referred to as 'Sun Hung Kai') made two investments with Nugan Hand Ltd. The first loan was for HK$1 million on 28 July 1975 which Nugan Hand Ltd received on 15 August 1975 as A$153 904.45.[84] The term of the loan was for six months, however it was rolled over twice. The first repayment of interest was due at the end of the first six monthly term and was paid by Nugan Hand Ltd.[85]

The second interest payment was not remitted by Nugan Hand Ltd from Australia, instead, Nugan Hand (Hong Kong) paid HK$48 616.74 interest to Sun Hung Kai on 14 August 1976.[86] This money was not reimbursed to Nugan Hand (Hong Kong) and was contrary to Reserve Bank approval which was granted to Nugan Hand Ltd, as opposed to any other company, to pay HK$49 150.68 in interest. Nevertheless Nugan Hand Ltd amended its internal books and records to record a repayment.

On 17 August 1977 Sun Hung Kai made a second loan, this time in the amount of HK$2 million to Nugan Hand Ltd. Nugan Hand Ltd received A$386 996.90 the following day.[87] The loan was for a twelve month term and was twice extended but the principal was never repaid by Nugan Hand Ltd as Nugan Hand Ltd collapsed prior to the date on which the loan was due for repayment. The second interest payment on this loan which was due on the 17 August 1979 was not remitted by Nugan Hand Ltd but was paid by the Nugan Hand Bank.[88]

8G.2.7 Example No. 7 - Ayala Finance (Hong Kong) Ltd

Ayala Finance (Hong Kong) Ltd (hereafter referred to as 'Ayala Finance') provided three loans to Nugan Hand Ltd. The first loan involved no exchange control. The second and third loans however, like the Sun Hung Kai transactions referred to above, involved interest payments paid by the Nugan Hand Bank or Nugan Hand (Hong Kong) Ltd (hereafter known as 'Nugan Hand (Hong Kong)') without Reserve Bank approval.

In relation to the second loan, Ayala Finance deposited HK$2 million with Nugan Hand Ltd on 10 September 1975. It was received the following day as A$307 692.30.[89] Interest on this loan was paid six monthly and the first four interest payments were remitted by Nugan Hand Ltd direct to Ayala Finance. However, from 10 September 1978 interest payments which were due were not repaid by Nugan Hand Ltd. Nugan Hand Bank repaid the interest on behalf of Nugan Hand Ltd on each occasion. These interest payments were made on 10 September 1978 for HK$125 445.21, on 10 March 1979 for HK$142 109.59, on 10 June 1979 (from this date onwards interest was paid three monthly) for HK$114 657.53, on 12 September 1979 for

HK$123 698.82, on 10 December 1979 for US$26 496.03 and on 10 March 1980 for HK$131 013.[90] No approval was obtained from the Reserve Bank for Nugan Hand Bank to remit these moneys on behalf of Nugan Hand Ltd. After 23 March 1979 when approval was granted for an extension of the loan for three months, no approval was sought of the Reserve Bank to extend the loan for any further periods of time. There was no outflow of capital from Nugan Hand Ltd to repay the principal involved in this loan.

A similar situation occurred with the third loan made by Ayala Finance to Nugan Hand Ltd. This loan was made on 6 March 1976 for HK$2 million and was received in Australia on 9 March 1976 as A$317 630.29.[91] The first instalment of interest on this loan was due on 6 September 1976 and was paid by Nugan Hand (Hong Kong) in the form of HK$88 698.63.[92] Nugan Hand Ltd did not reimburse Nugan Hand (Hong Kong) until 29 October 1976 when A$15 203.74 was sent to Nugan Hand (Hong Kong) seven weeks after the interest had been paid. No Reserve Bank approval was sought for Nugan Hand (Hong Kong) to repay the money on behalf of Nugan Hand Ltd.

8G.2.8 Example No. 8 - Dignified Trading Co Ltd

On 26 October 1975 Dignified Trading Co. Ltd, in Hong Kong, advanced HK$200 000 to Nugan Hand Ltd in Sydney.[93] The HK$200 000 was received by Nugan Hand Ltd on 31 October 1975 as A$31 147.80.[94] The term of the loan was six months, at the end of which, interest was due to be paid by Nugan Hand Ltd. However, no payment was made by Nugan Hand Ltd nor was any Reserve Bank approval sought.

The loan was extended for a term of six months with Reserve Bank approval. However, prior to this approval, part of the loan from Dignified Trading Co Ltd was repaid by Nugan Hand (Hong Kong). These repayments by Nugan Hand (Hong Kong) were advanced on 10 March 1976 in the amount of HK$10 000[95] and on 25 March 1976 in the amount of HK$25 000.[96]

A six monthly interest payment was due on 26 April 1976 which, following the reduction in the loan, needed to be recalculated. However the

Australian records were not adjusted to reflect this reduction and no money was paid by Nugan Hand Ltd in Sydney to Nugan Hand (Hong Kong) by way of reimbursement. Nugan Hand Ltd continued to represent to the Reserve Bank that the loan remained outstanding in full at that time. In fact, the Reserve Bank authority for the loan, contained a condition that the loan was not to be repaid either wholly or partly in less than six months. No Reserve Bank approval was sought by Nugan Hand Ltd for Nugan Hand (Hong Kong) to make the payments on behalf of Nugan Hand Ltd.

8G.2.9 Example No. 9 - C.F.D. Stark

During the course of 1975, 1976 and 1978 Captain and Mrs C.F.D. Stark, in Hong Kong made four loans to Nugan Hand Ltd in Sydney. Nugan Hand Ltd did not repay the final interest due on each of the loans.

The first loan was raised on 21 November 1975 for HK$100 000. This was received by Nugan Hand Ltd as A$15 635.83.[97] The second loan was advanced on 14 May 1976 for HK$100 000 and received by Nugan Hand Ltd as A$16 355.97.[98] The third loan was advanced on 10 October 1978 for HK$1 million and was received by Nugan Hand Ltd as A$182 016.75.[99] The fourth loan was advanced on the same day for HK$1.9 million and received by Nugan Hand Ltd on the same day as A$345 831.81.[100]

Each of the loans had a two year term. The first two loans were extended for a further two years. However on 28 November 1978 all four loans were repaid to Captain and Mrs Stark by the Nugan Hand Bank. On the same day, Nugan Hand Ltd sought approval from the Reserve Bank to repay the loans on its own behalf. This approval was granted on 8 December 1978. Nugan Hand Ltd then reimbursed the Nugan Hand Bank but did not include the last amount of interest earned on each of the four loans, namely in respect of the first loan A$2 025.09, for the second loan A$1 277.36, for the third loan A$2 443.51 and for the fourth loan A$4 642.67 totalling A$10 388.63. Accordingly, less than the amount approved by the Reserve Bank was sent by Nugan Hand Ltd to the Nugan Hand Bank and although the Reserve Bank had approved repayment to the clients, Nugan Hand Ltd sent the funds to the Nugan Hand Bank.

8G.2.10 Example No. 10 - Reterden Ltd

Reterden Ltd in Hong Kong advanced three loans to Nugan Hand Ltd in Sydney. The first loan made on 25 November 1979 was for US$200 000.[101] This was received in Australia by Nugan Hand Ltd on 3 December 1975.[102] Interest on the loan was payable six monthly and the first three instalments were added to the principal. After this the six monthly instalments of interest were to be paid to Reterden Ltd. All interest and principal payments were in fact made by the Nugan Hand Bank with only partial reimbursement from Nugan Hand Ltd. The first interest payment was made on 10 December 1977 when the Nugan Hand Bank paid US$10 198.38 to Reterden Ltd.[103] A further instalment of interest of US$11 591.60 was paid six months later on 10 June 1978 by the Nugan Hand Bank.[104] The Nugan Hand Bank was not reimbursed by Nugan Hand Ltd until 26 June 1978 when A$17 818.29 was sent to Nugan Hand Bank.[105] No further amounts of interest or principal on this loan were made by Nugan Hand Ltd. The next instalment of interest of US$13 037.36 was paid by Nugan Hand Bank on 10 December 1978.[106] Nugan Hand Bank repaid the principal and interest, totalling US$245 874.79 on 10 June 1979.[107] No Reserve Bank approval was obtained for Nugan Hand Bank to repay this money on behalf of Nugan Hand Ltd.

The second loan was for US$575 000 and was advanced by Reterden Ltd on 23 December 1975. This was received in Australia the following day by Nugan Hand Ltd as A$456 566.61.[108] The first two interest instalments which were due on 23 December 1976 and 30 June 1977 were added to the principal of the loan. The next instalment of interest due on 30 December 1977 was paid by Nugan Hand Bank. This interest amounted to US$29 650.91.[109] The next instalment of interest, due on 30 June 1978, was paid on that date in the amount of US$34 520.22. Nugan Hand Ltd reimbursed Nugan Hand Bank for both of these interest payments in the amount of A$51 202.28 on 9 June 1978.[110] The next instalment of interest amounting to US$39 313.10 was paid by Nugan Hand Bank on 30 December 1978.[111] Nugan Hand Bank also repaid the principal of US$661 709.09 and interest of US$34 520.22 on 3 July 1979.[112] Nugan Hand Ltd did not reimburse Nugan Hand Bank in respect of these payments made on its behalf until 6 September 1979 when A$587 402.65 was sent to

Nugan Hand Bank by Nugan Hand Ltd.[113] No Reserve Bank approval was obtained by Nugan Hand Ltd for Nugan Hand Bank to repay these amounts of interest and principal on behalf of Nugan Hand Ltd.

The same situation existed in relation to the third loan which was advanced to Nugan Hand Ltd on 11 January 1976 in the amount of US$299 000.[114] Nugan Hand Ltd received this money in Australia on the following day as A$237 169.82.[115] As was the case with the earlier loans the first two amounts of interest payable to Reterden Ltd were added to the principal, and the total amount of principal and interest was 'rolled over' for a further six months. On 11 July 1978 the next six monthly instalment of interest being US$18 898.45 was repaid to Reterden Ltd by Nugan Hand Bank.[116] Nugan Hand Ltd had sent US$17 759.99 to Nugan Hand Bank on 7 July 1978 to enable the Bank to meet these interest payments.[117] The remaining three instalments of interest, due six monthly, as well as the principal, were paid by the Nugan Hand Bank without reimbursement from Nugan Hand Ltd. These instalments of interest were due and paid by Nugan Hand Bank to Reterden Ltd by payments of US$21 420.61 on 11 January 1979,[118] US$26 753 on 11 July 1979,[119] and US$24 766.87 on 11 January 1980 while the principal of US$362 294.75 was repaid by Nugan Hand Bank on 11 January 1980.[120]

8G.2.11 Example No. 11 - Overseas Trust Bank

The Overseas Trust Bank in Hong Kong made two loans to Nugan Hand Ltd in Sydney. The first loan was for HK$2 million and was advanced on 10 December 1975. Approval from the Reserve Bank was obtained in respect of this loan.

A second loan was advanced on 15 July 1976 for HK$4 million. This was received by Nugan Hand Ltd on the same day as A$648 403.30.[121] The approval obtained from the Reserve Bank was for a period of six and a half months. The records of Nugan Hand Ltd indicate that the loan was repaid on 10 February 1977 in Hong Kong. No repayment of either interest or principal was made by Nugan Hand Ltd in Australia. In fact the Nugan Hand Bank made all the interest payments due in respect of the loan until

10 February 1979 when the Bank repaid the principal and final interest due to the Overseas Trust Bank. No approval was sought by Nugan Hand Ltd for the extension of this loan beyong the original six and a half month term.

Nugan Hand Ltd did not obtain approval for the repayment of the principal and interest in respect of this loan by the Nugan Hand Bank. The amounts paid by Nugan Hand Bank were:[121a]

Date	Amount
10 February 1977	HK$ 195 616.44
9 August 1977	HK$ 178 520.55
10 February 1978	HK$ 166 356.16
10 August 1978	HK$ 166 356.16
10 February 1979	HK$ 191 561.64
10 February 1979	HK$4 000 000.00

8G.2.12 Example No. 12 - B.N.S. International

B.N.S. International in Hong Kong advanced two loans to Nugan Hand Ltd in Sydney. The first loan of US$500 000 was advanced on 22 January 1976. It was received on the same day in Australia by Nugan Hand Ltd as A$396 636.52.[122] No repayment of either interest or principal was made by Nugan Hand Ltd in respect of this loan. The principal and some interest payments were paid by Nugan Hand Bank and one instalment of interest was repaid by Nugan Hand (Hong Kong). No Reserve Bank approval was sought by Nugan Hand Ltd for Nugan Hand (Hong Kong) or Nugan Hand Bank to make these payments on behalf of Nugan Hand Ltd. Nugan Hand (Hong Kong) made an interest payment of US$20 854.17 on 22 July 1976. The Nugan Hand Bank repaid the final interest together with the principal, that is US$521 958.33, on 24 January 1977.[123]

The second loan of US$1 million was advanced by B.N.S. to Nugan Hand Ltd on 4 August 1977. The requisite Reserve Bank approvals were obtained in respect of this loan.

8G.2.13 Example No. 13 - Wardley Ltd

On 24 August 1976 Wardley Ltd advanced HK$2.5 million to Nugan Hand Ltd which received A$406 844.57 the following day.[124] The funds were advanced to Nugan Hand Ltd via Nugan Hand (Hong Kong). The loan was obtained by Nugan Hand Ltd without first obtaining approval from the Reserve Bank. The first instalment of interest was paid out of an account in the name of Nugan Hand Ltd at the Wing On Bank in Hong Kong. The funds in this account were supplied by Nugan Hand Bank. No approval was sought from the Reserve Bank for this interest payment to be made off shore. On 31 August 1977 the next instalment of interest being A$17 761.96 was paid by Nugan Hand Ltd to Wardley Ltd without Reserve Bank approval.[125]

On 1 March 1978 a further six months interest amounting to A$16 653.39 was paid by the Nugan Hand Bank to Wardley Ltd. On the same day Nugan Hand Ltd sent this amount to the Bank to reimburse it for the payment made on its behalf. No approval was sought or obtained by Nugan Hand Ltd in respect of this payment.[126] On 1 September 1978 Nugan Hand Bank made a third interest payment of HK$96 113.02 to Wardley Ltd.[127] On 4 September 1978 Nugan Hand Ltd sent A$18 097.32 to Nugan Hand Bank to reimburse it for the payment made on its behalf.[128]

The principal and interest of HK$2 639 246.58[129] was repaid by Nugan Hand Bank on 14 March 1979. On the same day Nugan Hand Ltd sent the amount of A$453 635.88 (HK$2 459 357.84) to Nugan Hand Bank.[130] Nugan Hand Ltd reimbursed Nugan Hand Bank only to the extent of the principal repaid on its behalf, HK$2 459 357.84, in fact Nugan Hand Ltd under paid Nugan Hand Bank to the extent of HK$179 888.74 (approximately A$30 000).

No Reserve Bank approval was sought by Nugan Hand Ltd for Nugan Hand Bank to pay out the loan and the interest on behalf of Nugan Hand Ltd although it did obtain approval on 14 March 1979 for Nugan Hand Ltd to repay the principal of the loan.

8G.2.14 Example No. 14 - Inter Alpha Asia (Hong Kong) Ltd

Inter-Alpha Asia (Hong Kong) Ltd (hereafter known as 'Inter-Alpha Asia (Hong Kong)') loaned US$500 000 to Nugan Hand Ltd on 2 August 1977. This was received by Nugan Hand Ltd on the same day as A$445 156.69.[131] On 2 February 1978 the loan was extended with Reserve Bank approval and another US$500 000 was advanced. This was received by Nugan Hand Ltd on the same day as A$438 904.49.[132]

Reserve Bank approval for repayment of the principal by Nugan Hand Ltd was granted on 8 February 1979. Instead, Nugan Hand Ltd sent US$1 million to the Nugan Hand Bank. This $1 million was actually used by Nugan Hand Bank to pay out the Overseas Trust Bank loan, referred to above, plus interest due on the Inter Alpha Asia loan.

In addition one instalment of interest was met by Nugan Hand Bank on behalf of Nugan Hand Ltd without Reserve Bank approval as, in the records of Nugan Hand Ltd, the loan was shown as having been already repaid. This interest was paid on 2 August 1979 in the amount of US$62 847.22.[133] The entry relating to the interest that was due on 2 February 1980 has not been located amongst the books and records of the Nugan Hand Group.

8G.2.15 Example No. 15 - Madam Chew Hong Kiat (Grace Wee)

Madam Chew Hong Kiat (also known as Grace Wee) had money on deposit with Nugan Hand Ltd in Australia in the name Grace Wee. Nugan Hand Ltd obtained approval from the Reserve Bank for A$250 000 to be remitted out of Australia at the expiration of the term of the deposit. After the approval was obtained the deposit was reinvested with Nugan Hand Ltd.[134]

Madam Kiat also had money on deposit with Nugan Hand Bank and in respect of both of these deposits interest payments were made from both Australia and Singapore. These payments were frequently intermingled and it was therefore difficult to isolate the amount of interest which related to the Nugan Hand Bank deposit and the amount of interest which related to

the deposit with Nugan Hand Ltd in Australia. However, an examination of the records of both companies revealed that approximately A$60 000 in interest was paid by Nugan Hand Bank in Singapore in relation to Madam Kiat's deposit with Nugan Hand Ltd.[135] The money was still on deposit with Nugan Hand Ltd at the time of the Nugan Hand Group's collapse.

No Reserve Bank approval was sought or obtained by Nugan Hand Ltd for the interest on the Nugan Hand Ltd deposit to be paid overseas by another company within the Nugan Hand Group.

8G.2.16 Example No. 16 - Search Asia Ltd

Search Asia Ltd in Hong Kong advanced two loans to Nugan Hand Ltd in Australia. The first occurred on 24 February 1978 when HK$1 million was received in Australia as A$189 035.92.[136] The second loan occurred on 2 March 1978 when another HK$1 million was received in Australia as A$189 429.81.[137]

Nugan Hand Bank repaid all amounts of interest and both amounts of principal as and when they fell due. Nugan Hand Ltd later reimbursed Nugan Hand Bank for the first instalment of interest in respect of the first loan when A$8 142.32 was sent to Nugan Hand Bank.[138] The amount sent to Nugan Hand Bank was slightly in excess of the amount that Nugan Hand Bank had paid Search Asia Ltd, that is Nugan Hand Ltd slightly overpaid Nugan Hand Bank.[139] Nugan Hand Ltd later reimbursed Nugan hand Bank in respect of the payments of interest and principal made on its behalf; on 7 November 1979 the company sent A$419 186.08 to Nugan Hand Bank.[140] Nugan Hand Bank had paid out to Search Asia Ltd a total of HK$2 328 760.26 and the amount sent by Nugan Hand Ltd to Nugan Hand Bank amounted to HK$2 340 171.23. There was thus an over reimbursement by Nugan Hand Ltd of HK$11 410.97 (approximately A$2 000).

No approvals were sought by Nugan Hand Ltd for Nugan Hand Bank to make the payments of interest and principal on behalf of Nugan Hand Ltd. No approval was sought by Nugan Hand Ltd for the payments to Nugan hand Bank, which were by way of reimbursement of the Bank for payments made on behalf of Nugan Hand Ltd.

8G.3 Other Movement of Money across national borders without the approval of the Reserve Bank

According to the records of the Reserve Bank[141] no approval was sought by Nugan Hand Ltd in respect of two amounts of money which were advanced to the company by Nugan Hand Bank in 1980. The first of these loans was channelled to Nugan Hand Ltd through Nugan Hand Management Services Ltd.

On 17 January 1980 Nugan Hand Bank sent US$250 000 to Nugan Hand Management Services Ltd.[142] This money was sent to Nugan Hand Ltd on 22 January 1980.[143] Nugan Hand Ltd received the money the following day as A$225 024.75. No approval was sought or obtained in respect of the advance by Nugan Hand Bank. The money was not repaid by Nugan Hand Ltd.

On 26 March 1980 US$55 480 (A$50 000) was sent by Nugan Hand Bank to Nugan Hand Ltd.[144] No Reserve Bank authority was obtained in respect of this transfer to Nugan Hand Ltd. The advance was made three weeks before the termination of the activities of the Nugan Hand Group of companies. Nugan Hand Ltd did not repay the money to the Nugan Hand Bank.

8G.4 Overseas Bank Accounts of Nugan Hand Ltd

There was no evidence in the records of the Reserve Bank[145] to indicate that Nugan Hand Ltd had obtained approval to conduct transactions through overseas bank accounts.

Nugan Hand Ltd Account with Wing On Bank (No. 14260-3)

This bank account was funded by Nugan Hand Bank and was largely used to meet bank charges and commissions due to the Wing On Bank in respect of loans made to Nugan Hand Ltd by overseas corporations and to meet the charges levied by the Wing On Bank in respect of its guarantee of deposits sent to Nugan Hand Ltd in Australia with Reserve Bank authority.

Nugan Hand Ltd Account with Chase Manhattan Bank (No. 68-72-16139-0)

Documents obtained by the Commission indicated that this bank account existed, but it is not known whether any transactions were processed through the account.[146]

Nugan Hand Ltd Account with First National City Bank (No. 00193771)

Documents obtained by the Commission indicated that as at 18 December 1975 this bank account had not been used by Nugan Hand Ltd.[147] It is not known whether the bank account was closed or operated upon after this date.

Nugan Hand Limited Account with F.A. Neubauer Bank

Mr Pollard [profile 2.57] gave evidence to the Commission that Nugan Hand Ltd had a bank account with the F.A. Neubauer Bank.[148] It is not known whether any transactions were processed through this account.

8G.5 Extensions of Loans not Approved by the Reserve Bank

Approvals obtained by Nugan Hand Ltd from the Reserve Bank for overseas borrowings to be received by Nugan Hand Ltd contained conditions, one of which was that a fresh approval be obtained from the Reserve Bank in the event that the loan was extended beyond the period approved. Nugan Hand Ltd often failed to apply for this approval to extend the term of the borrowing.

8G.5.1 Example No. 1 - B.H. and C.S.C. Wong

On 28 July 1975 approval was given by the Reserve Bank for a loan to Nugan Hand Ltd from B.H. and C.S.C. Wong in Hong Kong. The amount of money involved in this loan was HK$100 000. Approvals were sought and obtained for amendment of the term of this loan and the amount of principal involved with the effect that on the 22 December 1976 approval was granted for one loan of HK$132 300 for a period of twelve months.

However Nugan Hand Ltd did not pay out that loan precisely twelve months later. The loan was extended by B.H. & C.S.C. Wong for a further month.[149] No approval was sought by Nugan Hand Ltd to extend the loan for this extra month. The company treated the loan as though it had expired on its due date and repaid the principal and interest accordingly, although such payment was made one month after the original due date.[150] Nugan Hand Bank paid the interest charges due in respect of the additional month's deposit on behalf of Nugan Hand Ltd.[151] At the expiration of the extra month the funds were reinvested with the Nugan Hand Bank in accordance with the clients' wishes.

8G.5.2 Example No. 2 - Ayala Finance (H.K) Ltd

Ayala Finance (H.K.) Ltd advanced three loans to Nugan Hand Ltd. The second advance was extended without obtaining Reserve Bank approval.

On 23 March 1979 approval was obtained from the Reserve Bank to extend a loan of HK$3 million for a period of three months.[152] After the expiry of this term no further approvals were obtained or sought by Nugan Hand Ltd in respect of this loan. However the loan was still outstanding at the time of the collapse of Nugan Hand Ltd in April 1980.[153] The principal and interest were subsequently repaid to the company by the Wing On Bank pursuant to the terms of its guarantee of Nugan Hand Ltd deposits.

8G.5.3 Example No. 3 - Container-Care Ltd (Margarco)

On 14 April 1976 Nugan Hand Ltd obtained Reserve Bank approval to extend a loan of HK$500 000 from Container-Care Ltd (also known as 'Margarco') in Hong Kong for a period of six months.[154] However, the company had actually extended the period of its loan by twelve months. The loan was repaid by Nugan Hand Bank which received no reimbursement of funds from Nugan Hand Ltd.[155] No approval from the Reserve Bank was sought by Nugan Hand Ltd in respect of the extra six month term.

8G.5.4 Example No. 4 - Overseas Trust Bank Ltd

Nugan Hand Ltd in Sydney obtained approval on 12 July 1976 to borrow HK$4 million from Overseas Trust Bank Ltd in Hong Kong. The term of this loan was for six and a half months (200 days).[156] The maturity date was 10 February 1977. However the loan was repaid two years later, on 10 February 1979, by Nugan Hand Bank. Funds were advanced by Nugan Hand Ltd to Nugan Hand Bank to enable the Bank to repay the loan. For this outflow of money to the Bank, Nugan Hand Ltd used an approval obtained from the Reserve Bank in respect of a repayment to Inter-Alpha Asia (Hong Kong) (not the Overseas Trust Bank). No approval was sought from the Reserve Bank for the loan to be extended for the extra two year period.

8G.5.5 Example No. 5 - Inter-Alpha Asia (Hong Kong) Ltd

On 3 August 1978 Nugan Hand Ltd obtained Reserve Bank approval to extend a previous borrowing of US$1 million from Inter-Alpha Asia (Hong Kong). On 9 February 1979 Nugan Hand Ltd paid US$1 million to Nugan Hand Bank using the Reserve Bank approval applicable to the repayment of Inter-Alpha Asia (Hong Kong). This money was used by Nugan Hand Bank to pay out interest on the loan from Inter-Alpha Asia (Hong Kong) and the principal owing to a different lender, Overseas Trust Bank Ltd.

The term of the loan from Inter-Alpha Asia (Hong Kong) to Nugan Hand Ltd was extended to 9 February 1980. No approval was sought by Nugan Hand Ltd in respect of the extension of this loan.

8G.5.6 Example No. 6 - Madam Chew Hong Kiat (Grace Wee)

Nugan Hand Ltd borrowed A$250 000 from Madam Chew Hong Kiat (also known as Grace Wee) in January 1978 for a period of two years. At the expiration the loan, approval was obtained by Nugan Hand Ltd to remit A$250 000 from Australia to Madam Kiat in Hong Kong.[157] However Nugan Hand Ltd did not remit any funds to Madam Kiat before its collapse in April 1980. No approval was sought by Nugan Hand Ltd to extend the term of this loan past January 1980.

8G.5.7 Example No. 7 - Nugan Hand Management Services Ltd

Approval was given by the Reserve Bank on 20 December 1979 for US$250 000 to be advanced by Nugan Hand Management Services Ltd (Singapore) to Nugan Hand Ltd for a period of three months. This money was never returned by Nugan Hand Ltd to Nugan Hand Management Services Ltd. No approval was sought for the extension of the loan beyond the original ninety day term.

Approval was also granted by the Reserve Bank on 13 July 1979 for Nugan Hand Management Services Ltd (Singapore) to advance US$1 350 000 to Nugan Hand International Holdings Pty Ltd in Sydney.[158] The term of this loan was twenty days. The loan was partly repaid on 2 October 1979 when Nugan Hand International Holdings Pty Ltd sent US$562 800 to Nugan Hand Management Services Limited. The remainder of the loan was not repaid. No approval was sought from the Reserve Bank to extend any portion of this loan past the original twenty day term.

Approval was obtained from the Reserve Bank on 23 October 1979 for Nugan Hand Management Services Ltd to advance US$1 million to Australia. The term of this loan was two months.[159] This loan was not repaid by any of the Australian companies to Nugan Hand Management Services Ltd. No approval was obtained from the Reserve Bank to extend this loan beyond December 1979.

8G.5.8 Example No. 8 - Nugan Hand Bank

Approval was obtained from the Reserve Bank on 2 February 1979 for Nugan Hand Bank to advance US$200 000 to Nugan Hand Ltd for a term of fourteen days.[160] However the loan was not repaid for almost six months.[161] No approval was obtained to extend this loan beyond the period first approved.

8G.5.9 Example No. 9 - Baia Do Oriente Limitada

On 14 July 1977 approval was obtained from the Reserve Bank for Baia Do Oriente Limitada, Macau to send US$90 000 to Nugan Hand Ltd in

Sydney.[162] This loan was approved for six months and with approval was extended for two further periods of six months. The ultimate maturity date of the loan was 18 January 1979.[163] However the loan was never repaid by Nugan Hand Ltd and no Reserve Bank approval was sought for the loan to be further extended beyond the initial periods referred to above.

8G.5.10 Example No. 10 - Shue Shau Min

On 24 May 1976 approval was obtained from the Reserve Bank for Nugan Hand Ltd, Sydney to borrow US$100 000 from Mr Shue Shau Min in Hong Kong for a period of six months. However no repayment was made by Nugan Hand Ltd. The loan was in fact repaid by the Nugan Hand Bank after the expiration of twelve months.[164] No Reserve Bank approval was sought or obtained for the six month extension of the original loan.

8G.5.11 Example No. 11 - Dong Xaoi Ltd

On 30 November 1976, the Reserve Bank granted approval for Dong Xaoi Ltd, in Hong Kong to advance A$150 000 to SKAH Pty Ltd [profile 2.102] in Sydney for a period of three years. The loan was never repaid to Dong Xaoi Ltd. No approval was obtained to extend the loan beyond its three year term.

We have an exchange control prosecution file for these parties

8G.6 Transactions for which Reserve Bank approval was misused - Lender falsified

Nugan Hand Ltd sought and obtained Reserve Bank approval to obtain money from three organisations. The money was not in fact obtained from those organisations but from Nugan Hand Bank or Nugan Hand (Hong Kong) Ltd.

8G.6.1 Example No. 1 - Baia do Oriente Limitada

Nugan Hand Ltd and Yorkville Nominees Pty Ltd (hereafter referred to as 'Yorkville Nominees') obtained Reserve Bank approval to borrow four amounts from Baia do Oriente Limitada (hereafter referred to as 'Baia do Oriente'), a company incorporated in Macau. Contrary to the terms of the approvals, the source of the funds advanced was the Nugan Hand Bank. The

amount advanced to Nugan Hand Ltd was US$90 000 and the three amounts advanced to Yorkville Nominees were US$90 000, US$90 000 and US$50 000. In all cases the funds were derived from deposits obtained by the Nugan Hand Bank from overseas depositors. No money was ever advanced at any time by Baia do Oriente to Nugan Hand Bank. Three of the four amounts borrowed were repaid to Nugan Hand Bank.

The Nugan Hand Bank treated all the loans in its records as though they were Yorkville contra transactions. This treatment appears to have been adopted as a matter of expediency rather than as a result of the nature of the transaction. The Nugan Hand Bank was unable to offset this money against any deposits received because Baia do Oriente did not pay any money to the Nugan Hand Bank.

The first loan (A$80 056.93) was received by Nugan Hand Ltd on 18 July 1977.[165] Nugan Hand Ltd did not repay this loan and a journal entry was effected in the records of Nugan Hand Ltd to make it appear as though the loan had been transferred to Yorkville Nominees Pty Ltd. This had the effect of reducing the indebtedness of Yorkville Nominees to Nugan Hand Ltd. Reserve Bank approval was obtained for this loan on 14 July 1977 on the false basis that the lender was Baia do Oriente. The fraudulent application to the Reserve Bank was compounded when the loan was extended for two further terms of six months. Approvals which named Baia do Oriente as the lender of the funds were obtained for these extensions on 11 January 1978 and 19 July 1978.

Reserve Bank approvals were obtained for three loans to Yorkville Nominees on 3 August 1977, 12 August 1977 and 24 August 1977 respectively, again on the false basis that the lender was Baia do Oriente. The first amount (US$90 000) was received by Nugan Hand Ltd on 15 August 1977 as A$81 477.46.[166] On 17 August 1977 Nugan Hand Ltd paid the money to Yorkville Nominees.[167] On 16 March 1978 Nugan Hand Ltd paid money to Yorkville Nominees to allow Yorkville Nominees to repay the loan plus interest. The amount repaid was A$88 105.73.[168] This money was used in the second capital injection of Nugan Hand Ltd. [see the reconstruction of Nugan Hand Ltd's financial statements contained in Part 5 of this Report]

The other two loans of US$90 000 and US$50 000 advanced to Yorkville Nominees purportedly by Baia do Oriente were received on 25 August 1977 by Yorkville Nominees as A$126 433.66.[169] This money was also used for the second capital injection of Nugan Hand Ltd [see paragraphs ... of this report]. Yorkville Nominees repaid these two loans on 3 March 1978 when it sent A$121 379.40 to Nugan Hand Bank.[170] The money to repay the loans was provided to Yorkville Nominees by Nugan Hand Ltd.[171] The repayments of the three loans to Nugan Hand Bank were treated in the records of Nugan Hand Bank as though the funds were on deposit from Baia do Oriente. These funds were still shown to be on deposit with the Bank at the time of the collapse of the Nugan Hand Group.[172]

8G.6.2 Example No. 2 - Nugan Hand Management Services Ltd

This company was used as a conduit for funds being sent from Nugan Hand Bank to Nugan Hand Ltd. Most of the Reserve Bank approvals obtained were for the transfer of funds from Nugan Hand Management Services Ltd (hereafter referred to as 'Nugan Hand Management Services') in Singapore to Nugan Hand International Holdings Pty Ltd [profile 2.96] in Australia. In all cases the source of the funds transferred was from Nugan Hand Bank and the ultimate recipient was Nugan Hand Ltd.

On 15 December 1979 Nugan Hand Bank sent $250 000 to Nugan Hand Management Services.[173] On 17 December 1979 Nugan Hand Management Services sent US$250 000 to Australia.[174] On 20 December 1979 Nugan Hand Ltd received A$225 958.06 being the Australian equivalent of the US$250 000.[175] Nugan Hand Ltd treated the transaction in its records as though it was a loan from Nugan Hand International Holdings Pty Ltd. It was so shown on the client ledger card for that company in the records of Nugan Hand Ltd.[176]

On 13 July 1979 a second loan of US$1 350 000 from Nugan Hand Management Services in Singapore to Nugan Hand International Holdings Pty Ltd in Australia was approved by the Reserve Bank. Nugan Hand Management Services was again used as a conduit for money to be sent from Nugan Hand Bank to Nugan Hand Ltd in Australia.

On 10 July 1979 US$250 000 was sent from Nugan Hand Bank to Nugan Hand Management Services in Singapore[177] and on 11 July 1979 US$1 100 598.42 was sent by the Bank to Nugan Hand Management Services.[178] The source of these moneys was funds on deposit with the Bank. On the same day US$1 350 000 was sent by Nugan Hand Management Services to Nugan Hand Ltd.[179] Nugan Hand Ltd received this money on 12 July 1979 as A$1 198 508.52.[180] In this instance, the funds did not go first to Nugan Hand International Holdings Pty Ltd but direct to Nugan Hand Ltd.

On 2 October 1979 A$500 000 (US$562 800) was repaid to Nugan Hand Management Services by Nugan Hand International Holdings Pty Ltd[181] reducing the loan to US$787 200. Nugan Hand Ltd provided the funds for this remittance.[182] On 4 October 1979 Nugan Hand Management Services sent US$562 800 to the Nugan Hand Bank.[183]

Nugan Hand Management Services was again used as a conduit for the transfer of funds from Nugan Hand Bank to Nugan Hand Ltd in November 1979. On 23 October 1979 the Reserve Bank gave approval for US$1 million to be advanced to Nugan Hand International Holdings Pty Ltd in Australia by Nugan Hand Management Services. Once again the source of the funds transferred was the Nugan Hand Bank and the recipient was Nugan Hand Ltd. On 1 November 1979 Nugan Hand Bank sent US$500 000 (A$455 331.94) to Nugan Hand Management Services which was then sent to Nugan Hand International Holdings Pty Ltd in Australia. These funds were then paid to Nugan Hand Ltd.[184] The following day Nugan Hand Bank sent a further US$250 000 to Nugan Hand Management Services which was then sent to Nugan Hand International Holdings Pty Ltd. It was received as A$227 086.93[185] and paid to Nugan Hand Ltd.[186]

The Nugan Hand Bank also sent some of the funds covered by this approval direct to Nugan Hand Ltd. This occurred on 1 and 2 November 1979 and both payments were of US$100 000. These two payments brought the total funds transferred to Nugan Hand Ltd pursuant to the Reserve Bank approval of 23 October 1979 to US$1 million. In all cases, Nugan Hand Bank treated the funds transferred in its records as though they had been paid to Nugan Hand Management Services in Singapore.[187]

On 1 November 1979, Nugan Hand Ltd received a further A$232 673.39 from the Nugan Hand Bank which together with the other receipts totalled more than the US$1 million for which approval had been obtained from the Reserve Bank. This final amount was, according to commentary against a journal entry in the books of the Nugan Hand Bank, from clients of the Bank in the Middle East. The Reserve Bank objected to this exceeding of the approval and consequently on 23 November 1979 Nugan Hand Ltd sought approval to return the funds.[188] The application for approval stated that the recipient of the funds was to be the Swiss Banking Corporation in Singapore.[189] Approval was granted on that basis, but on 7 December 1979,[190] Nugan Hand Ltd sent HK$1 251 267.49 to the account of Nugan Hand Bank at the Wing On Bank in Hong Kong.[191]

8G.6.3 Example No. 3 - Chase Manhattan Asia Ltd

On 16 March 1979 Nugan Hand Ltd, Sydney obtained approval from the Reserve Bank to borrow HK$2 500 000 for a period of six months from Chase Manhattan Asia Ltd, Hong Kong (hereafter referred to as 'Chase Manhattan'). The application to the Reserve Bank was made by Nugan Hand Ltd although it was the intention of Chase Manhattan to invest its funds with Nugan Hand (Hong Kong), not with Nugan Hand Ltd. Accordingly, the application should more properly have been made in the name of Nugan Hand (Hong Kong). The details of this transaction are as follows.

On 23 November 1978 Chase Manhattan offered a HK$5 million line of credit (stand by facility) to Nugan Hand (Hong Kong).[192] On 14 March 1979 one half of this facility was drawn upon by Nugan Hand (Hong Kong).[193] On the following day Nugan Hand (Hong Kong) transferred this money to Nugan Hand Ltd but treated the transaction in its records as a deposit with Nugan Hand Bank.[194]

Nugan Hand Ltd then used the HK$2.5 million received to repay a loan of HK$2.5 million that was due to Wardley Ltd. The principal and interest on the loan with Chase Manhattan was repaid by Nugan Hand Bank on 13 September 1979 as HK$2 668 287.67.[195] Nugan Hand Ltd did not reimburse Nugan Hand Bank until 29 November 1979 when A$485 935.57 (HK$2 638 630.17)

was paid to Nugan Hand Bank by Nugan Hand Ltd and used by Nugan Hand Bank to pay out clients' deposits.[197]

Nugan Hand (Hong Kong) treated the funds received from Chase Manhattan on 14 March 1979 as though they were a deposit accepted from a client and allocated Chase Manhattan a client number, 60440-C.[198] The documents before the Commission suggest that the stand by facility was drawn upon by Nugan Hand (Hong Kong) solely for the purpose of enabling Nugan Hand Ltd to meet its commitment to Wardley Ltd.

8G.7 Transactions for which Reserve Bank Approval was Misused - Recipient Falsified

8G.7.1 Example No. 1 - Inter-Alpha Asia (Hong Kong) Ltd

Mention has already been made of a loan of US$1 million to Nugan Hand Ltd from Inter-Alpha Asia (Hong Kong); although the loan was to be extended Nugan Hand Ltd paid the money to the Nugan Hand Bank and recorded the loan as having been repaid.

Nugan Hand Bank used the money to pay interest that was due on the loan to Inter-Alpha Asia (Hong Kong) and to pay principal and interest that was due on the expiration of the term of the loan by Overseas Trust Bank referred to above.

On 15 July 1976 Nugan Hand Ltd received a loan of A$648 403.30 (HK$4 million) from the Overseas Trust Bank. Nugan Hand Ltd did not make any payments of either interest or principal to Overseas Trust Bank in respect of this loan. All payments were made by Nugan Hand Bank. Four instalments of interest were paid by Nugan Hand Bank, and the final principal and interest due was repaid by Nugan Hand Bank on 10 February 1979 when US$874 899.34 was sent to the Overseas Trust Bank.[199]

On 10 February 1979 Nugan Hand Ltd sent US$1 million to Nugan Hand Bank by way of reimbursement for the amounts paid to the Overseas Trust Bank on its behalf. This US$1 million was treated in the records of Nugan

Hand Ltd as though it was a repayment to Inter-Alpha Asia (Hong Kong). Interest of US$54 944.44 was paid by Nugan Hand Bank to Inter-Alpha Asia (Hong Kong) on behalf of Nugan Hand Ltd on 2 February 1979.[200]

The repayment to the Overseas Trust Bank by Nugan Hand Bank and the payment of interest to Inter-Alpha Asia (Hong Kong) were both treated by Nugan Hand Bank as an inter-company debt due by Nugan Hand Ltd. This inter-company debt due by Nugan Hand Ltd was covered by the US$1 million sent by Nugan Hand Ltd on 10 February 1979.

The details of the Inter-Alpha Asia (Hong Kong) loan to Nugan Hand Ltd are as follows. On 2 August 1977 US$500 000 was advanced to Nugan Hand Ltd by Inter-Alpha Asia (Hong Kong). This was increased the following year by a further US$500 000. According to the records of Inter-Alpha Asia (Hong Kong), this loan was still outstanding at the time of the collapse of Nugan Hand Ltd.[201]

Correspondence between Inter-Alpha Asia (Hong Kong) and Nugan Hand Ltd dated 1 February 1979 clearly indicated that the loan was to be extended for a further term by Nugan Hand Ltd.[202] However, Nugan Hand Ltd's records show that the loan was repaid on 9 February 1979 when A$880 669.31 (US$1 million) was sent to the Nugan Hand Bank. The Reserve Bank was not advised of any further extensions after this date by Inter-Alpha Asia (Hong Kong). The records of the Nugan Hand Bank indicate that interest payments that were due on the loan to Inter-Alpha Asia (Hong Kong) were met by Nugan Hand Bank and charged to the inter-company account of Nugan Hand Ltd.

The approval to repay the Inter-Alpha Asia (Hong Kong) loan was granted on 8 February 1979[204] to Nugan Hand Ltd in response to a request dated 7 February 1979.[205] However, Nugan Hand Ltd had used this approval one year earlier than the loan was due to be repaid. Nugan Hand Ltd had used this authority solely for the purpose of providing funds to the Nugan Hand Bank to enable the Nugan Hand Bank to meet the commitment of Nugan Hand Ltd to Overseas Trust Bank.

8G.7.2 Example No. 2 - Dignified Trading Co Ltd

On 31 October 1975 Nugan Hand Ltd borrowed A$31 147.80 for 6 months from Dignified Trading Co Ltd with Reserve Bank approval.[206] Advances were made by Nugan Hand (Hong Kong) against this loan to Dignified Trading Co Ltd. The Reserve Bank approval prohibited early reductions of the loan.[207] The amounts of the advances made by Nugan Hand (Hong Kong) were HK$10 000 on 10 March 1976 and HK$25 000 on 25 March 1976.

The loan was subsequently extended with Reserve Bank approval for a further 6 months on 28 April 1976.[208]

Nugan Hand Ltd ignored the fact that these advances had been made by Nugan Hand (Hong Kong) against the loan and continued to calculate interest on the loan in accordance with Reserve Bank approval. Accordingly, when Nugan Hand Ltd repaid the loan to Nugan Hand (Hong Kong) it repaid HK$208 500 instead of the HK$180 562 that was outstanding. However, the loan from the Dignified Trading Co. Ltd was not repaid by Nugan Hand (Hong Kong). Instead, the liability for the loan was taken up by Nugan Hand Bank, in other words, Dignified Trading Co. Ltd extended the loan as a deposit with Nugan Hand Bank and was paid out by Nugan Hand Bank on 26 May 1977.[209]

In summary, Dignified Trading Co. Ltd paid Nugan Hand Ltd which in turn paid Nugan Hand (Hong Kong). Apart from the HK$35 000 advanced by Nugan Hand (Hong Kong) to Dignified Trading Co. Ltd the rest of the loan was repaid to Dignified Trading Ltd by Nugan Hand Bank, not by Nugan Hand (Hong Kong).

8G.8 Transactions for which Reserve Bank Approval was Misused - Interest Rates Falsified

Interest rates quoted in applications to the Reserve Bank for approval were often less than the interest rates in fact paid to the overseas party. In all cases where this occurred the extra interest was not paid by Nugan Hand Ltd but was met by either Nugan Hand (Hong Kong) or the Nugan Hand Bank. Some instances where this occurred are cited below.

8G.8.1 Example No. 1 - Sun Hung Kai Finance Company Ltd

Nugan Hand Ltd obtained two advances from Sun Hung Kai Finance Company Ltd. The second of these two advances (HK$2 million) was received by Nugan Hand Ltd on 18 August 1977. The rate of interest that was quoted by Nugan Hand Ltd on its application to the Reserve Bank for approval for the loan was 8.25 per cent. One year later when the borrowing was extended, the interest rate quoted by Nugan Hand Ltd in its application was increased to 9.5 per cent. This rate was also quoted in a further application for approval on 29 August 1979.

Although, the interest rate for this loan commenced at 8.25 per cent it was actually tied to a margin of 3.5 per cent above the Hong Kong and Shanghai Bank's best lending rate which at that time was 4.75 per cent per annum. This best lending rate increased during the term of the loan and Nugan Hand Ltd thus incurred a liability to repay a greater amount of interest.

On 1 May 1978 the Hong Kong and Shanghai Bank's best lending rate was increased to 5.5 per cent. Therefore the effective interest rate on the loan from 1 May 1978 was 9 per cent. The application to the Reserve Bank was not adjusted for this increase in interest rate. Neither was the liability taken up by Nugan Hand Ltd when calculating interest due on the loan. Nugan Hand Bank made the interest payments due to Sun Hung Kai and was either not reimbursed by Nugan Hand Ltd or was reimbursed less than the correct amount. For example, the interest that was due to Sun Hung Kai on 17 August 1978 was paid by Nugan Hand Bank as HK$170 287.67,[210] but Nugan Hand Ltd only reimbursed Nugan Hand Bank to the extent of HK$165 000.[211]

From July 1978 the Hong Kong and Shanghai Bank's best lending rate increased by a further 0.5 per cent. This was also ignored by Nugan Hand Ltd even though Nugan Hand Bank incurred the liability for that extra 0.5 per cent when re-paying the interest to Sun Hung Kai on behalf of Nugan Hand Ltd.[212] When the loan was extended by Nugan Hand Ltd, approval was sought from the Reserve Bank quoting an interest rate of

9.5 per cent. However, the Hong Kong and Shanghai Bank's best lending rate continued to rise and during the period 17 August 1978 to 17 August 1979 the interest due on the loan by Nugan Hand Ltd ranged from 9.5 per cent to 16.5 per cent per annum.

The Hong Kong and Shanghai Banking Corporation's prime rate moved as follows:

17 July 1978	6 per cent
30 October 1978	7.25 per cent
9 November 1978	8.75 per cent
2 January 1979	9.5 per cent
19 February 1979	10.5 per cent
20 March 1979	11 per cent
10 April 1979	11.5 per cent
20 April 1979	13 per cent
14 August 1979	13 per cent.[213]

Although the loan had become quite expensive, the original arrangement in respect of the interest rate continued with Sun Hung Kai when the loan was extended in August 1979. However, the application to the Reserve Bank stated that the interest on the loan was 9.5 per cent. After this extension of the loan the interest rate continued to climb. The Hong Kong and Shanghai Bank's prime rate rose from 13 per cent to 14.5 per cent on 21 August 1979 and by 11 March 1980 had reached 16 per cent. Nugan Hand Ltd was therefore incurring an interest rate liability of 19.5 per cent in respect of this loan, 10 per cent more than the approved rate.

8G.8.2 Example No. 2 - Ayala Finance (H.K.) Ltd

On 11 September 1975 Reserve Bank approval was obtained for a borrowing by Nugan Hand Ltd from Ayala Finance of HK$2 million at 9.25 per cent. This borrowing was extended with approval on 24 March 1976 at a rate of 10 per cent and was again extended with approval on 11 March 1977 at a rate of 9 per cent. Three days later approval was granted to add in a

further HK$1 million at the same rate. The HK$3 million was extended with Reserve Bank approval on 23 March 1979, also at a rate of 9 per cent.

Again the interest rate on the loan was tied to the best lending rate of the Hong Kong and Shanghai Banking Corporation, with Nugan Hand Ltd liable to pay 3.5 per cent above the best rate referred to in the previous example.[214]

This rate of 3.5 per cent above the best rate was incurred by Nugan Hand Ltd from 11 March 1977, until the collapse of Nugan Hand Group. Nugan Hand Bank in fact paid the interest due on this loan and after 8 March 1978 was not reimbursed.

8G.8.3 Example No. 3 - Reterden Ltd

Approval was obtained from the Reserve Bank on 3 December 1975 for Nugan Hand Ltd to obtain an overseas borrowing of US$200 000 from Reterden Ltd at a rate of 9.25 per cent. This loan was extended on the same terms with approval from the Reserve Bank on 27 May 1976.

A further extension occurred on 8 December 1976, however, the Reserve Bank was not informed that Nugan Hand Ltd had in fact agreed with Reterden Ltd to pay 2.5 per cent above the LIBOR (London Inter-Bank Offered Rate) rate of 6.25 per cent. This made the rate of interest 8.75 per cent.[215] When this loan was extended again approval was obtained on 29 June 1977 to pay a rate of 8.75 per cent. The official LIBOR rate became 7.5 per cent. Therefore Nugan Hand Ltd was liable to pay 10 per cent interest on this loan, even though the Reserve Bank had been notified that the loan was attracting an interest rate of only 8.75 per cent.[216] By the time the interest payment that was due on 11 December 1978 was made by Nugan Hand Bank on behalf of Nugan Hand Ltd, the interest rate on the loan had increased to 11.25 per cent.

On 23 December 1975 the Reserve Bank approved a second loan (US$575 000) from Reterden Ltd to Nugan Hand Ltd. This loan was extended on two occasions. Approval was granted on 29 June 1977 for the investment

(including some previous interest) to be US$661 709. The approval was granted at an interest rate of 8.75 per cent. However, in a letter from Mr Collings [profile 2.15] to Reterden Ltd[217] the interest rate was stated to be 10.319 per cent, that is 2.5 per cent above the LIBOR rate, which was then 7.819 per cent.

The third loan advanced with Reserve Bank approval to Nugan Hand Ltd by Reterden Limited was for US$299 000 on 12 January 1976. The interest rate quoted to the Reserve Bank was 10.25 per cent, however, in a letter from Reterden Ltd to Nugan Hand Ltd[218] the interest rate was quoted as 10.1 per cent. The extension of this loan (together with accrued interest) received Reserve Bank approval on 6 January 1977. The new interest rate quoted to the Reserve Bank was 10.83 per cent, however, a Nugan Hand Ltd letter to Reterden Limited showed that the interest rate was 9.75 per cent.[219]

8G.8.4 Example No. 4 - Wardley Limited

Wardley Limited invested HK$2.5 million with Nugan Hand Ltd with Reserve Bank approval on 23 August 1976. An interest rate was quoted of 7.25 per cent, however, the actual interest arrangements with Wardley Limited were that the loan was to be at 2.25 per cent above the Hong Kong and Shanghai Banking Company's best lending rate. At 1 March 1977 the best lending rate was 5.5 per cent, therefore the loan at that time attracted interest of 7.75 per cent per annum. As the Hong Kong and Shanghai Bank's best lending rate fluctuated during the term of the loan so did the arrangements for the repayment of the interest on the loan to Wardley Limited.[220]

An application for extension of this loan at the new interest rate of 7.75 per cent was rejected by the Reserve Bank which stated in a letter to Nugan Hand Ltd dated 7 March 1977[221] that it was unable to grant retrospective authorities. However, the Reserve Bank also informed Nugan Hand Ltd in this letter that they did not propose to take any action in respect of the omission.

The Hong Kong and Shanghai Bank's best lending rate fluctuated during the term of this loan from 5.5 per cent dropping to 4.75 per cent from 1 April 1977[222], rising again by May 1978 to 5.5 per cent and increasing to 6 per cent by 17 July 1978.[223]

The rate had increased to 7.25 per cent by 31 October 1978[224], 8.75 per cent on 9 November 1978,[225] 9.5 per cent by 2 January 1979[226], and 10.5 per cent by 19 February 1979.[227] In an application by Nugan Hand Ltd to the Reserve Bank for an extension of the loan it was claimed that the interest rate as at March 1979 was to be 7.75 per cent per annum,[228] when in fact the interest rate that was due on the loan at that time was 12.75 per cent.[229]

8G.8.5 Example No. 5 - Inter-Alpha Asia (Hong Kong) Ltd

The arrangement with Inter-Alpha Asia (Hong Kong) for the borrowing by Nugan Hand Ltd was that the interest rate would be 1.5 per cent above LIBOR.[230] The rate quoted by Nugan Hand Ltd in its application to the Reserve Bank was 7.75 per cent.[231] Between 2 August 1977 and 2 February 1978, the actual rate was 8.25 per cent.[232] When the loan was extended in February 1978 with a further injection of principal the interest rate quoted to the Reserve Bank was still 7.75 per cent. However at that time the interest rate payable by Nugan Hand Ltd to Inter-Alpha Asia (Hong Kong) was 9.38 per cent.[233]

In August 1978 the loan was extended for a further period of six months at the same interest rate, namely 1.5 per cent over LIBOR.[234] However, the rate of interest quoted to the Reserve Bank was only 8.25 per cent per annum.[235] Inter-Alpha Asia (Hong Kong) had already advised Nugan Hand Ltd that the rate that would be payable was 10.75 per cent per annum.[236]

Nugan Hand Ltd used the authority to repay the Inter-Alpha Asia (Hong Kong) loan to send funds to Nugan Hand Bank so that Nugan Hand Bank could meet Nugan Hand Ltd's commitment to the Overseas Trust Bank. Nugan Hand Ltd recorded the loan as repaid. The obligations of Nugan Hand Ltd to

Inter-Alpha Asia (Hong Kong) under the loan continued. This obligation included the payment of interest at the LIBOR rate plus 1.5 per cent.[237] By February 1979 the rate payable by Nugan Hand Ltd was 12.5 per cent. By February 1980 the amount of interest payable was 15.875 per cent.[238]

FOOTNOTES

PART 8 - SCHEDULE G

SEE EXPLANATORY NOTE AT FRONT OF REPORT

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3 CD6982 folio 30; CD6454 folios 60, 61
4 CD8358 folios 32, 33
5 CD10065
6 CD10069 folio 232
7 CD10823
8 CD11241 folio 2
9 CD1950
10 CD1262 folios 9-18
11 CD1262 folios 5-8
12 CD1262 folio 16
13 CD10075
14 CT25126-27, Shaw
15 CD5475
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18 CD5141
19 CD8653 folio 37
20 CD4416, CD10200
21 CD1950, CD8618 folio 46
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23 CD7852 folio 56
24 CD7852 folio 31
25 CD7852 folios 21-22
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27 CD7852 folios 15-17, CD8336 folio 140
28 CD6449
29 CD7852 folio 35; CD8260 folios 83, 139, 515, 191; CD6454 folio 147, 148; CD6449 folio 9
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32 CD7346 folios 3 & 4
33 CD6133 folios 7, 9 & 10
34 CT25073
35 CD10304 folio 2; CT24752, Hill
36 CD7733 folio 73; CD7797 folio 122; CD4642 folio 67

37 CD11442
38 CD7852 folios 123-125; CD8323 folio 84
39 CD8444 folio 26
40 CD8445 folio 7
41 CD8445 folio 8
42 CT25096, Shaw
43 CD11425
44 CD10452
45 CD8412 folios 123, 124; CD8684 folios 30, 24, 25
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48 CD7769 folios 3-6; CD10019
49 CD5478 folios 59-61
50 CT25097-98
51 CD5986 folios 9-14
52 CD5986 folios 24, 30-31,
53 CD5986 folios 615-26, 32-34
54 CD5986 folio 324
55 CD5478 folios 46, 53; CD5473; CD7184 folio 40
56 CD11433
57 CT25104-05
58 CD5478 folio 20; CD8414 folio 16; CT1415
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60 CD5473 folio 82
61 CD5983 folios 25, 26, 28, 30, 31, 33 & 37
62 CD4409 folios 27-28, 53-55; CD4409 folio 19; CD6421 folio 3
63 CD3816 folio 20; CD3571 folio 61
64 CD3816 folio 34; CD3540 folio 18
65 CD3816 folio 44; CD3568 folio 41; CD3571 folio 70
66 CD3816 folio 44; CD3568 folio 41; CD3571 folio 70
67 CD3816 folio 70
68 CD4160 folio 14
69 CD3529 folio 12; CD4156 folio 78
70 CD1557 folio 39
71 CD8362 folio 42
72 CD3910; CD4160 folio 15
73 CD3910 folios 7, 12, 13, 18
74 CD7819 folio 39
75 CD7609 folio 75; CD7819 folio 39; CD8363 folio 42
76 CD3904 folio 14
77 CD3904 folio 8; CD2899; CD3816
78 CD2017 folio 36; CD3540 folio 34; CD6555 folios 28 & 36; CD6984 folio 13
79 CD6556 folio 36
80 CD3980 folio 1
81 CD3868; CD3816; CD5452 folio 754; CD7396
82 CD3735; CD3760; CD3816; CD4088 folio 922; CD7392
83 CD8354; CD7956 folios 63 & 64
84 CD4160 folio 11; CD7224 folio 140
85 CD4156; CD3780
86 CD3826 folio 18
87 CD2899; CD3540 folio 35
88 CD8327 folio 432
89 CD3844 folio 16; CD4063 folio 1; CD4160 folio 12

90	CD8377 folio 28-31; CD8375 folios 30, 73-74; CD8376 folios 33-34; CD8362 folio 12
91	CD3845 folios 14, 20
92	CD3846 folios 17, 21
93	CD3897 folio 27
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95	CD3897 folios 8, 11; CD3919 folio 28
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142 CD1981 folio 39; CD8311 folio 40; CD8362 folio 7
143 CD1981 folio 40; CD8083 folios 432-34
144 CD3797 folio 4; CD4172 folio 987; CD8354 folio 114
145 CD2800
146 CD6509 folios 377-78
147 CD6509 folios 377-78
148 CT23301, Pollard
149 CD7224 folio 24
150 CD7224 folio 9
151 CD977 folio 4; CD3816; CD3868; CD5148; CD7228 folios 12, 14, 23
152 CD3966 folio 7
153 CD977 folios 3, 5, 6
154 CD2800 folio 921
155 CD977 folio 3; CD8362 folio 42
156 CD2800 folio 855
157 CD977 folio 5
158 CD3975 folio 21
159 CD3911 folio 3
160 CD2800 folio 522
161 CD5451 folio 697; CD5124; CD3818
162 CD3823 folio 9
163 CD977 folio 6
164 CD977 folio 4
165 CD3540 folio 34; CD5440 folio 309; CD2899
166 CD3985 folio 31; CD5532; CD5164
167 CD4142; CD5440 folio 230; CD2899; CD3868
168 CD3868;CD5442 folio 476; CD5148; CD3816
169 CD5533 folio 1; CD5164
170 CD5164; CD5523; CD5360; CD5533 folio 6; CD8263 folio 139; CD8351 folio 67
171 CD5533; CD5164
172 CD7823 folio 34
173 CD2037 folio 179
174 CD2037 folio 180; CD10276 folio 2
175 CD4216 folio 9; CD3540 folio 14; CD4088 folio 920
176 CD344 folio 13
177 CD8376 folio 6; CD8440 folio 493; CD2037 folio 169
178 CD2037 folio 169
179 CD2037 folio 170
180 CD5453 folio 808; CD3540 folio 2; CD7394
181 CD2037 folio 175; CD3975 folio 11
182 CD4394
183 CD2037 folio 176; CD8434 folio 103; CD8362 folio 25
184 CD4394 folio 2; CD8303 folio 4; CD3540 folio 11; CD4088 folio 886; CD8362 folio 21; CD7772 folio 96; CD7767; CD8439 folio 2291
185 CD8362 folio 21; CD8439 folio 2293; CD3540 folio 11; CD4088 folio 887
186 CD4394 folio 2
187 CD4640 folio 80; CD4073 folio 136; CD3805 folio 21; CD5144; CD4073 folio 136
188 CD3925 folio 8
189 CD3925 folio 4
190 CD5329 folio 353; CD4162 folio 45; CD8373 folio 9; CD5139; CD8888 folio 25; CD3735; CD3540 folio 11

191 CD3925 folio 3; CD7513 folio 99; CD8376 folio 82
192 CD10476 folio 76
193 CD9591 folios 174-75; CD9308 folio 13
194 CD9591 folios 172, 176-77; CD9620 folio 39; CD9308 folio 14
195 CD9591 folio 77; CD9308 folio 28
197 CD4088 folio 905; CD3735; CD3816; CD3760
198 CD7087 folios 49, 46
199 CD8304 folio 91; CD7520 folio 201
200 CD6834 folio 4
201 CD4130 folios 18-19
202 CD6834 folio 8
204 CD4130 folio 92
205 CD4130 folio 44
206 CD3897 folio 27; CD4063 folio 5; CD4160 folio 14
207 CD3897 folio 29; CD3919 folio 28; CD10010 folio 23; CD3897 folios 8, 9 & 11
208 CD2800 folio 912
209 CD7609 folio 32
210 CD7833 folio 194
211 CD3852 folio 13; CD3816; CD5121
212 CD7244 folio 45
213 CD7224 folio 5
214 CD3966 folio 28
215 CD3900 folio 28
216 CD3900 folio 27
217 CD3924 folio 24
218 CD3929 folio 23
219 CD3899 folio 8
220 CD7229 folio 3
221 CD3821 folio 39
222 CD7229 folio 91
223 CD7229 folio 63
224 CD7229 folio 51
225 CD7229 folio 50
226 CD7229 folio 49
227 CD7229 folio 48
228 CD3835 folio 4
229 CD7229 folio 43
230 CD4130 folio 56; CD6834 folio 86
231 CD4130 folios 82 & 86
232 CD4130 folio 48
233 CD4130 folios 30-32; CD6834 folio 47
234 CD4130 folio 106
235 CD4130 folios 103-105
236 CD6834 folio 22
237 CD6834 folio 8
238 CD4130 folios 11 & 19

FEATURES

A TALE OF TWO BANKS

LEIGH Scott-Kemmis, managing director of the Australian operations of Bank of New Zealand, is trying to achieve in 113 days what his forbears failed to do in 113 years.

Since taking over the helm of what he continually refers to as Australasia's fifth largest bank, Mr Scott-Kemmis has radically transformed the face of what was – until now – a sleeping giant.

In the three months since he left Australian Bank Ltd to join New Zealand's largest bank, the Bank of New Zealand has taken on a dozen or so senior executive staff, while a wholly owned merchant bank subsidiary has been set up.

In addition, the Australian operations have undergone a substantial restructuring and now fall into four distinct divisions – investment banking, corporate and commercial banking, retail banking and management services and, more recently, financial management.

The local changes were triggered by the prospect of 16 new foreign banks competing for business in the Australian market in general and the trans-Tasman market in particular.

As BNZ operates as a branch – and has been since the 19th century – it enjoys a privileged position compared with its foreign bank competitors.

The 16 banks which were invited to set up in Australia must be locally incorporated and therefore don't – theoretically, at least – enjoy full access to their parents' balance sheets.

Moreover, the BNZ has already gone through the process of having its certificates of deposit and commercial bill acceptances accepted in the Australian marketplace – a process which may prove to be one of the biggest nightmares for the 16 new banks.

Like the Banque Nationale de Paris, the BNZ also enjoys the privilege of prudential moderation, as its capital adequacy guidelines from the Reserve Bank stipulate that, like the existing banks, their capital can be as low as 6 per cent of total assets.

But the new banks, at least in their formative years, will have to maintain 6.5 per cent of their assets in capital.

Indeed, the BNZ and BNP are similar in many ways as Mr Scott-Kemmis acknowledges, but with one important difference – retail banking.

"Unlike the new banks, we have a natural retail base in Australia," Mr Scott-Kemmis said.

Of the 700,000 people who travel to New Zealand every year, 600,000 are visiting from Australia. Moreover, there are one million New Zealanders or people of New Zealand descent in this country.

"Even if we can get 5 per cent of these people to do something with us we're excited," he said. "We can actually specialise in retail banking."

Mr Scott-Kemmis therefore believes BNZ can be treated as an established bank in Australia, which, he adds, is "only reasonable" for a bank which has been in this country for more than 100 years.

To this end, BNZ is planning to launch a new retail product shortly which is designed to attract funds to high interest-bearing deposit accounts.

The bank is also planning to use its customer Visa card to access accounts both in Australia and New Zealand, and is to install its own automatic teller machines in its Australian branches.

According to Mr Scott-Kemmis, the restructuring of the bank's Australian operations was not strategic.

Rather it is an attempt to establish self-contained divisions running within the existing legal framework of banks in Australia.

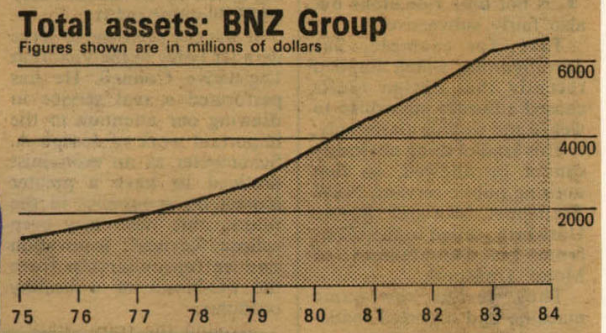
THE bank's new merchant banking subsidiary, known as BNZ International (Australia) Ltd, has a capital base of about $20 million and falls within the investment banking division, headed up by Lloyd Coakley.

This division is now broken down into three areas – treasury, financial markets and financial services and advisory.

According to Mr Scott-Kemmis: "We're not pretending to be in the takeover business. We're talking about real grass roots, middle market type of financial advice."

Paul Wood from Transcity and Michael Marks from Sanwa are running the advisory section.

The dozen or so new faces at the BNZ in Australia have been head-hunted from a number of areas and include some New Zealanders.



Mr Coakley, who heads BNZ's investment banking division and was appointed around the same time as Mr Scott-Kemmis, in June this year, has been with BNZ for 4½ years and was previously with Chase-NBA Ltd.

Several of the new senior executive staff are, like Mr Scott-Kemmis, former employees of Australian Bank.

Eric Dodd, who runs the retail banking and management services division, for example, was previously general manager, finance, in the planning and information division at Australian Bank.

Linda Nicholls, also ex-Australian bank, is now heading the product development and marketing within the same division.

Ian Hawthorn, ex-Macquarie Bank, now heads the financial markets division in investment banking, reporting ultimately to Mr Coakley.

One the major coups has been to secure the senior dealer with Standard Chartered Bank PLC in London, George Hopcraft, to run the bank's foreign exchange operation in Australia.

Mr Scott-Kemmis sees a major, albeit specialised, role for Bank of New Zealand in foreign exchange markets, as it is the largest dealer in Kiwi dollars in the world.

It is also active in the recently expanding Euro-NZ dollar bond market, where it is also a frequent arranger of interest rate swaps.

Another recent appointee, Dr John Jarratt, who holds a PhD in mathematics and was most recently with Macquarie Bank Ltd, is expected to specialise in the packaging of both currency and interest rates options.

The corporate and commercial banking division continues to be run by John Slaven, who is general manager of this division and to whom a number of account officers report.

Financial management division is being run by Graham Brown.

This division, which Mr Scott-Kemmis describes as "an entirely new area", will concentrate on credit control, prudential management and relationship banking.

Cabinet Minute
Legal & Admin Cmtee
20.11.85
Dec. NO 6845 (LA)

Endorsed by Cabinet
Dec No 6882 of 25/11/85

Sub. No. 3366 - Gov'ts Response to Final Report of St. RC of Inq. into the Activities of the Nugan Hand Group

Cabinet
The Cmtee noted that the Premier of NSW had today replied to the PM's telex on deletions to be made from the Final Report of the RC of Inq. into the Activities of the NH Group.

Cabinet
2. The Cmtee agreed:-

a) that the Report be tabled in the current sittings of Parliament with deletions made of material which would prejudice current prosecutions or fair trial and with any further deletions agreed to by the PM, the A-G and the SHOS in response to the views of the NSW Gov't; and

b) that a statement along the lines of that at Att. A to the Submission, which outlines the Gov'ts response to the policy recommendations, be made on presentation of the Report to Parliament.

Cabinet
3. The Cmtee noted that a full copy of the report (without deletions) will be passed to the Leader of the Opposition for his information shortly before tabling.

Sgd
Cmtee Sec.

Sgd
C. Vesford
Sec to Cabinet

TELEPHONE: (202) 797-3000
TELEGRAPHIC ADDRESS: AUSTEMBA
TELEX: 892621

OFFICE OF
THE MINISTER (ECONOMIC)
1601 MASSACHUSETTS AVE.
WASHINGTON, D. C. 20036

Mr Callington
Mr M Cahill

EMBASSY OF AUSTRALIA

IN REPLY QUOTE

18 November 1985

27/11

Mr. J. Jepsen,
Financial Institutions Division,
The Treasury,
CANBERRA, ACT 2600

Dear John,

ROYAL COMMISSION OF ENQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP: BANKERS' OPINIONS

I apologise for not responding earlier to your letter of 3 October 1985 on the above. However, the Treasurer's visit, the Consuls-General Meeting in New York and the arrival of my family have all resulted in a rather busy period.

I am afraid that this is a bit of a non-issue in the United States. Both the Treasury and Federal Reserve Board take no real part whatsoever in either the issuance or continued oversight of bankers' opinions. They are left to the market in all respects.

As you can imagine, the vast number and variety of financial institutions in the United States makes it difficult to draw any reasonable conclusions as to their role in the community. Certainly, the major banking houses provide references for valued clients but these are tempered by the knowledge that legal recourse may be taken for any damages resulting from a misleading reference. In short, the bankers' opinions/references are a matter for individual institutions and my contacts suggest that there are not even any informal guidelines governing their use.

The Treasury official - a Mr. Robert Bench of the International Banking Division - noted that the authorities' involvement in this area is solely related to opinions/references between governmental authorities. There are some statutes, more frequently conventions, that require governments to exchange references as to the bona fides of their private banking institutions. For example, Bench noted that BIS regulations would technically require that the Australian authorities approach the United States authorities to attest that the U.S. banks are of sound standing before they began operations in Australia. These exchanges of references are, I am informed, made available to the public upon request.

Copy sent to J. Ley, A/G 3/12/85 under C.S.

.../2

I have spoken with Geoff Dabb, Counsellor (Legal), about this matter. He has been providing a considerable amount of information in this general area but he has nothing to add to the above.

I am sending copies of this letter to the Treasury posts in London and Tokyo.

Best wishes.

Yours sincerely,

J.A. Fraser
Minister (Economic)

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The Treasurer

CABINET SUBMISSION NO 3366
GOVERNMENT'S RESPONSE TO FINAL
REPORT OF STEWART ROYAL COMMISSION
OF INQUIRY INTO THE ACTIVITIES OF
THE NUGAN HAND GROUP

SPECIAL MINISTER
OF STATE

The Special Minister of State is seeking Cabinet's approval of the principles to be applied in making deletions from the text of the abovementioned Report that is to be released publicly and endorsement of the text of a statement the Minister proposes to make to Parliament on the Government's response to the Report.

BACKGROUND

Copies to:
The Secretary
Mr Moore
Dr Higgins
Mr Evans

2. The Commission was established in 1983 to investigate the alleged involvement of the Nugan Hand Group in drug trafficking, arms dealing and dealings with the CIA and alleged breaches by the Group of other Commonwealth and State laws. While the Commission's final report concludes that there is no evidence to support the allegations involving drugs, arms dealing and CIA involvement, it did find considerable evidence of breaches of State laws (principally provisions of the Crimes Act and company laws) and of Commonwealth laws in respect of taxation, the foreign exchange regulations as they then applied and the Royal Commissions Act.

3. The Royal Commission did not make any recommendations concerning the prosecution of alleged offences under Commonwealth and State laws but indicated that information in those respects had been passed to the relevant law enforcement authorities. It did, however, make a number of policy recommendations in respect of:-

- proposed amendments to the Royal Commissions Act;
- access to banking records in the Cayman Islands;
- the enactment of legislation to provide for the specification of the duties of auditors and for a review, by the NCSC, of the Companies Code; and

- the establishment of a Committee to review criteria for the issuing of "bankers' opinions" by banks on the standing and worth of their clients.

4. The Commission's recommendation regarding access to banking records in the Cayman Islands is already being pursued in other contexts (a similar recommendation was made, for example, by the Costigan Royal Commission). The only on-going matter arising from the Commission's recommendations which is of direct relevance to your portfolio interests therefore, concerns bankers' opinions. The Commission's concern regarding this matter arose from the alleged manner in which the Nugan Hand Group was able, through a series of negotiations with a Branch Manager (now deceased) of the ANZ Bank through whom it dealt, to influence the issue of favourable opinions on its financial standing and the subsequent very effective use made of those opinions in expanding the Group's activities, particularly in South East Asia.

5. At a meeting of the Officials' Committee on Law Enforcement on 25 July 1985, a small informal Working Group comprising officials of Treasury, the Reserve Bank and Attorney-General's Department was established to examine this matter. We are currently assembling the relevant background information covering the use of bankers' opinions and intend submitting the Working Group's recommendations on the matter to you as soon as possible.

COMMENT

6. The approach to be taken in making deletions from the publicly released Report is to remove references to a number of individuals named throughout the text who are currently being, or may be, investigated by law enforcement agencies. In line with the Commission's recommendations, it is also proposed that Part 10 of the Report which identifies specific alleged breaches of law be deleted. With one exception, the issues raised are essentially of a law enforcement nature. This exception relates to allegations concerning a senior private bank executive which the Governor discussed with you some time ago. The Governor is taking appropriate steps in regard to the matter consistent with the Commonwealth's banking responsibilities.

7. We have been consulted in the preparation of the text of the Minister's proposed statement and have no objections to it.

RECOMMENDATION

8. It is recommended that you raise no objections to the proposed approach to deletions from the Report and the text of the Minister's proposed statement.

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4

9. I am not giving this minute any wider Ministerial distribution.

Sgd. R. Beetham.

R.M. Beetham
First Assistant Secretary
7 November, 1985

F1 | Date 7.11.85

Copies: 5

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Name: M. EDWARDS

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Plus Mr Jepsen.

CABINET-IN-CONFIDENCE

The Treasurer

CABINET SUBMISSION NO 3366
GOVERNMENT'S RESPONSE TO FINAL REPORT OF STEWART ROYAL COMMISSION OF INQUIRY INTO THE ACTIVITIES OF THE NUGAN HAND GROUP

SPECIAL MINISTER OF STATE

The Special Minister of State is seeking Cabinet's approval of the principles to be applied in making deletions from the text of the abovementioned Report that is to be released publicly and endorsement of the text of a statement the Minister proposes to make to Parliament on the Government's response to the Report.

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CABINET-IN-CONFIDENCE

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RECOMMENDATION

8. It is recommended that you raise no objections to the proposed approach to deletions from the Report and the text of the Minister's proposed statement.

175

9. I am not giving this minute any wider Ministerial distribution.

R.M. Beetham
First Assistant Secretary
November, 1985